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Proposition 140: The Schabarum Initiative. Analysis of Provisions and Implications

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PROPOSITION 140

The Schabarum Initiative

Analysis of Provisions and Implications



**Prepared by
California Senate Office of Research**

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PROPOSITION 140

The Schabarum Initiative

Analysis of Provisions and Implications

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PREFACE

This briefing document was prepared to provide information and analysis on the content and implications of Proposition 140. California Elections Code Section 3532.1 requires the Senate to conduct, with the Assembly, joint fact-finding hearings on all initiative measures.

OVERVIEW

OVERVIEW

SUMMARY OF KEY PROVISIONS

Proposition 140 would add new provisions to the Constitution of California by placing limits on the terms of office served by elected state officials, requiring major cuts in the operating budget of the Legislature, and setting a limit on all future legislative operating budgets. It would also prohibit further state contributions to any retirement system for legislators other than federal Social Security.

Term Limits. This measure would prohibit the governor, lieutenant governor, attorney general, controller, secretary of state, treasurer, superintendent of public instruction, members of the Board of Equalization, and state senators from serving more than two terms in the same office. These public officials are normally elected for terms of four years. Thus, they would be allowed to hold the offices no more than a total of eight years. Members of the Assembly, who are elected for terms of two years, would be allowed to serve no more than three terms - a total of six years.

The restrictions would not impose limits on consecutive terms, but would rather apply for life; an officeholder who served the limit could never run for that office again. The term limits would apply to anyone elected on or after November 6, 1990. Senators not on the ballot on that date would be allowed to serve only one additional term. (Half the seats in the 40-member Senate are on the ballot in alternating, even-numbered years.)

Legislative Operating Budget. If approved by the voters, Proposition 140 would provide that in the fiscal year following the adoption of the act (July 1, 1991 - June 30, 1992) the total aggregate expenditures of the Legislature could not exceed an amount equal to \$950,000 per member or 80 percent of the legislative budget for the preceding fiscal year, whichever is less. This limitation would apply to all legislative expenditures, including those for:

- the compensation of members and employees;
- operations (including administrative activities; committee functions; bill analysis; public hearings; research; constituent services; printing; and legislative relations with other states, the federal government, and other nations);
- all equipment.

Aggregate expenditures in future fiscal years would be limited to the previous year's expenditures plus an amount equal to the percentage increase in the state appropriation limit.

Legislators' Pension System. This measure also requires any person elected to or serving in the Legislature on or after November 1, 1990, to participate in the federal Social Security program. It limits the state to paying only the employer's share of the contributions necessary to this participation. It prohibits the accrual of any other pension or retirement benefit as a result of service in the Legislature. These restrictions do not apply to any "vested" pension or retirement benefit (those benefits to which title is already held). No additional accrual or vesting would be permitted.

PROPOSITIONS 131 AND 140

A Comparison of Two Government Restructuring Initiatives

PROPOSITIONS 131 AND 140

A Comparison of Two Government Restructuring Initiatives

MAJOR PROVISIONS	PROPOSITION 131	PROPOSITION 140
Term Limits For Elected State Officials	Maximum consecutive terms (and years) in same office: Statewide Officers 2 terms (8 years) Board of Equalization .. 3 terms (12 years) State Senate 3 terms (12 years) Assembly 6 terms (12 years)	Maximum terms (and years) in same office: Statewide Officers 2 terms (8 years) Board of Equalization .. 2 terms (8 years) State Senate 2 terms (8 years) Assembly 3 terms (6 years)
Legislative Operating Budget	No provisions.	Limits spending per member to \$950,000 thus resulting in a 40% cut in expenditures for legislative branch of government.
Legislative Pensions	No provisions.	Prohibits further accrual of any retirement benefits except Social Security.
Campaign Reform	<ul style="list-style-type: none"> • New single-source contribution limits, including aggregate contribution limits. • Partial public funding of campaigns. • Spending limits for those who participate. • Restrictions on non-election-year contributions. • Regulation of independent expenditures. • New duties, more money for FPPC. • More severe penalties. 	No provisions.

PROPOSITIONS 131 AND 140

A Comparison of Two Government Restructuring Initiatives

MAJOR PROVISIONS	PROPOSITION 131	PROPOSITION 140
Ethical Standards for Elected Officeholders	<ul style="list-style-type: none"> • Ban on honoraria for both state and local elected officials. • Limits on gifts to both state and local elected officials. • Regulation of legal defense funds. • Conflict of interest standards. • Limits on personal use of campaign funds. • Prohibition on lobbying for 12 months after leaving office. <p>Note: Most of these ethics standards are already law as a result of legislative action and Proposition 112, passed in June 1990.</p>	No provisions.
Prosecution of Wrongdoing by Candidates and Officeholders	<ul style="list-style-type: none"> • New investigation and prosecution unit in Attorney General's Office. • Special Prosecutor at annual cost of \$1.2 million. 	No provisions.

PROPOSITION 140

Term Limits

PROPOSITION 140

Term Limits

DESCRIPTION OF SECTION

The California Constitution creates a number of elected state offices, grants the holders of these offices certain powers, and fixes the length for the term of office for each of these elected officials.

- Article V of the Constitution makes the governor the chief executive for the state, specifying that the governor shall be elected every fourth year.
- Article IV grants the legislative power of the state to a Legislature consisting of 40 state senators with terms of office of four years and 80 members of the assembly with terms of office of two years following each election.
- Article V provides that a lieutenant governor, secretary of state, attorney general, controller, and treasurer shall be elected at the same time as the governor.
- Article XIII creates a five-member Board of Equalization elected for four-year terms at gubernatorial elections.
- Article IX establishes the office of superintendent of public instruction and requires an election for this office every four years, also at the time of the gubernatorial election.

The Constitution sets forth the length of each term of office, but it does not presently provide for a maximum number of terms in the same office that a particular person may serve. Nor does it limit the number of consecutive terms (rather than total terms) that a person may serve in the same office.

Proposition 140 would alter each of the above constitutional articles to set an absolute limit on the number of terms in the same office (as described in Table 1). After reaching the applicable limit, individuals would be prohibited from ever serving in the same office again.

Term limits under Proposition 140 would be as follows:

Table 1		
Elected Official	Maximum Number of Terms	Total Allowed Years in Same Office
Governor	Two 4-Year Terms	8
Lieutenant Governor	Two 4-Year Terms	8
Attorney General	Two 4-Year Terms	8
Secretary of State	Two 4-Year Terms	8
Controller	Two 4-Year Terms	8
Treasurer	Two 4-Year Terms	8
Superintendent of Public Instruction	Two 4-Year Terms	8
Member, Board of Equalization	Two 4-Year Terms	8
State Senator	Two 4-Year Terms	8
Member of the Assembly	Three 2-Year Terms	6

The term limits in Proposition 140 are prospective only and would restrict terms for those elected after November 6, 1990. Individuals who had already served some years in office would not have to count those years in determining the time they might remain in office.

Under this measure, however, any incumbent senator whose office was not on the ballot on November 6, 1990, would be allowed to serve only one additional term. Any person elected or appointed to a term that was more than half over would be allowed the maximum number of full terms.

DRAFTERS' INTENT

The intent of the drafters of Proposition 140 is to limit the powers of incumbent politicians by restricting the number of terms they may serve, reducing the funds available to the Legislature, and eliminating further legislative retirement benefits. The proponents believe that the specific provisions of the proposition will prevent politicians from making a career in a political office, and "open up the electoral system."

SUMMARY OF KEY ARGUMENTS FOR TERM LIMITS

Proponents cite several reasons for imposing term limits:

- **Re-election rates are too high.** The drafters of Proposition 140 state that the seriousness of the problem of the lack of competitiveness in the present electoral system is indicated by the rate of re-election of incumbent officeholders. The ballot arguments declare that "incumbent legislators seldom lose," and that "in the 1988 election, 100% of incumbent state senators and 96% of incumbent members of the Assembly were re-elected."
- **Elected officials have too much power.** According to proponents, the present system has "given a tiny elite (only 120 people

out of 30 million) almost limitless power over the lives of California's taxpayers and consumers."

- **Our political system needs to be made more representative.** The proponents believe a more representative system can be created by giving greater support to "citizen representatives," of whom the Founding Fathers spoke. These citizen representatives would spend no more than eight years in a particular house or office and could not seek to make a career in those positions.
- **Term limits will lead to the creation of better public policy.** Supporters hold that under the present system legislators have proved unequal to solving the major problems plaguing California. They claim Proposition 140 would regularly bring in a new crop of fresh, more public-spirited officeholders with new ideas about how to solve these problems.
- **Term limits would break the link between special interests and legislators, curbing the influence of these special interests.** Drafters of the proposition want to reduce the power of incumbency, which they claim allows officeholders to demand large campaign contributions from special interests, who, in turn, support this "cozy relationship" for the sympathetic policy it produces.

POLICY IMPLICATIONS

Term Limits: Historical Background. Since the 1700s, there have been significant differences of opinion in the United States on the impact of term limits. Usually, the issue of term limits has centered on the executive branch of state and federal governments.

The Continental Congress included a three-year limit on delegates under the original Articles of Confederation, but when the U.S. Constitution was drafted, no term limits were included - either for Congress or the president. The Founding Fathers wrote on this subject in the Federalist Papers, the official explanation of and argument for the proposed Constitution (written primarily by Alexander Hamilton, John Jay, and James Madison). There, in Federalist Number 72, they set forth some reasons for not limiting the term of the president. The document is worth quoting at some length:

With a positive duration of considerable extent, I connect the circumstance of reeligibility. The first is necessary to give to the officer himself the inclination and the resolution to act his part well, and to the community time and leisure to observe the tendency of his measures, and thence to form an experimental estimate of their merits. The last is necessary to enable the people, when they see reason to approve of his conduct, to continue him in his station, in order to prolong the utility of his talents and virtues, and to secure to the government the advantage of permanency in a wise system of administration.

Nothing appears more plausible at first sight, nor more ill-founded upon close inspection than a scheme which in relation to the present point has had some respectable advocates, - I mean that of continuing the chief magistrate in office for a

certain time, and then excluding him from it, either for a limited period or forever after. This exclusion, whether temporary or perpetual, would have nearly the same effects, and these effects would be for the most part rather pernicious than salutary.

One ill effect of the exclusion would be a diminution of the inducements to good behavior. There are few men who would not feel much less zeal in the discharge of a duty, when they were conscious that the advantages of the station with which it was connected must be relinquished at a determinate period, than when they were permitted to entertain a hope of obtaining, by meriting, a continuance of them. This position will not be disputed so long as it is admitted that the desire of reward is one of the strongest incentives of human conduct; or that the best security for the fidelity of mankind is to make their interest coincide with their duty. Even the love of fame, the ruling passion of the noblest minds, which would prompt a man to plan and undertake extensive and arduous enterprises for the public benefit, requiring considerable time to mature and perfect them, if he could flatter himself with the prospect of being allowed to finish what he had begun, would, on the contrary, deter him from the undertaking, when he foresaw that he must quit the scene before he could accomplish the work, and must commit that, together with his own reputation, to hands which might be unequal or unfriendly to the task. The most to be expected from the generality of men, in such a situation, is the negative merit of not doing harm, instead of the positive merit of doing good.

Another ill effect of the exclusion would be the temptation to sordid views, to speculation, and in some instances, to usurpation. An avaricious man, who might happen to fill the office, looking forward to the time when he must at all events yield up the emoluments he enjoyed, would feel a propensity, not easy to be resisted by such a man, to make the best use of the opportunity he enjoyed while it lasted, and might not scruple to have recourse to the most corrupt expedients to make the harvest as abundant as it was transitory...

In summary, the authors of The Federalist opposed term limits based on the desirability of keeping persons of talent and virtue in office, the need for a continued impetus to perform the duties of office well, the need to support long-term views and long-term projects in the public interest, and the importance of reducing the incentive for corruption for quick personal gain.

Following this early period of American history, the issue of term limits continued to arise periodically at the state and federal level. Proponents of term limits were successful in 1951 in establishing a two-term limit for the President of the United States with the passage of the 22nd Amendment to the U.S. Constitution.

Support for expanding the application of term limits has continued to grow. The result is that twenty-eight states now limit the number of terms governors may serve, and there are also restrictions on many other officials elected

statewide. The logic supporting term limits has, however, failed thus far to convince voters to institute the limits on Congress, and only Oklahoma has approved (as of 9/18/90) term limits for state legislators.

Organizations exist at the national level that are promoting term limits for both members of Congress and for state officials. The Congressional Quarterly noted recently that the National Republican Party endorsed the idea of congressional term limits in its 1988 platform, but the journal also noted that little had been heard from the party on a formal basis since that endorsement.

Several organizations, such as the Americans to Limit Congressional Terms, the National Tax Limitation Committee, and the Committee to Limit Congressional Terms, are also promoting the idea of term limits throughout the country.

Americans to Limit Congressional Terms (ALCT) was organized by executives of the Eddie Mahe Co., a GOP consulting firm. ALCT is headed by former Congressman Jim Coyne, a Republican from Pennsylvania who lost his re-election fight in 1982. According to the Wall Street Journal, however, more than a quarter of the board members of ALCT are Democrats.

The Committee to Limit Congressional Terms is a project of the Committee to Protect the Family and gets assistance from former Republican Congressman Jim Jeffries of Kansas. The National Tax Limitation Committee has become more active in this arena lately and was reportedly of significant help in gathering signatures for Proposition 140.

Information is not available at this time to reveal how, or even if, Proposition 140 is part of a national strategy. The chief proponent of Proposition 140 is Peter Schabarum, a Republican county supervisor from Los Angeles. Schabarum was appointed by the Governor to the L.A. County Board of Supervisors in 1972. He is now approaching the end of his fifth term in office after being elected in 1974, 1978, 1982, and 1986. (There are presently no term limits for county supervisors, nor does Proposition 140 call for them.) In public statements, Schabarum emphasizes the "better government" aspects of his proposal and claims broad bipartisan support for term limits.

Term Limit Proposals in Other States. Of the 50 states, only Oklahoma has established limits on the number of terms that may be served by members of the state Legislature. Voters in Oklahoma approved a term-limiting measure on September 18, 1990. If California voters choose to approve either Proposition 140 or 131 in November, the state would be among the first to embark on this new approach to government.

California is one of six states in which legislative and/or initiative proposals to institute term limits have been under serious discussion within the last 12 months. Earlier this year, the National Conference of State Legislatures provided the Senate Office of Research (SOR) with a list of states and proposed legislation and initiatives on the subject. SOR has since updated that report.

Legislation

- Arizona - HCR 2024 proposed a number of changes in the state constitution, including provisions which would have allowed for staggered four-year terms and which would have limited members to three consecutive elective terms. The legislation was amended in the House Judiciary Committee, and the above provisions were amended out.
- California - ACA 42 (Ferguson) proposed that senators may not serve more than three consecutive four-year terms and that members of the Assembly may not serve more than five consecutive two-year terms. This measure failed passage.
- Colorado - SCR 90-4 proposed that senators be limited to two consecutive four-year terms and members of the house be limited to four consecutive two-year terms. This measure failed passage.
- Florida - HJR 1537 proposed that no member who has served as senator or member of the House for more than seven years in consecutive terms could be elected to that house for a succeeding term. This measure failed to be passed out of the House Ethics and Elections Committee.
- HJR 1111 proposed that no member who has served as senator or member of the House for more than 11 years in consecutive terms could be elected to that house for a succeeding term. This measure was tabled in the House Ethics and Elections Committee.
- SJR 2202 proposed limiting members of the Senate to three consecutive four-year terms and members of the House to six consecutive two-year terms. This measure died in the Senate Rules and Calendar Committee.
- New York - A 9732 proposed expanding terms of the members of the Senate and Assembly from two years to four years and provided that no member of the Senate or Assembly could serve more than four consecutive terms. This measure was held in the Assembly Governmental Operations Committee.

Initiatives

- Arizona - Two initiatives were in circulation. One of these declared that no persons would be eligible to serve if they have already completed four full terms as members of the Legislature. The other initiative would have set limits on the terms of state, county, city, and district officeholders. Those serving two-year terms would have been limited to four consecutive terms, those serving four-year terms would have been limited to two consecutive terms, and those serving six-year terms would have been limited to two consecutive terms. The proponents of these two initiatives were unable to gather the required number of signatures (130,048) to qualify the measures for the ballot.

- California - Two measures for the November 1990 ballot qualified with sufficient signatures - Propositions 131 and 140 - described in this summary.
- Colorado - This initiative would limit senators to two consecutive four-year terms and members of the House to four consecutive two-year terms. The Colorado secretary of state completed a count of the signatures on August 28 and determined that the initiative had qualified.
- Oklahoma - This initiative would prevent legislators from serving more than a total of 12 cumulative years in either house of the Legislature. The initiative has qualified for the ballot. This measure was approved by the voters of Oklahoma on September 18, 1990.

Significant Turnover Among California Officeholders. Data collected by the National Conference of State Legislatures (NCSL) confirms that there has been a decline in the turnover rate in state legislatures during the last decade. In the 1960s and 1970s typically one-third of the membership in legislatures turned over every two years. NCSL's data focus on a steady decline in the turnover rate in the lower house in most states during the 1980s.

Table 2
Membership Turnover in Lower Houses of State Legislatures

	1978	1980	1982	1984	1986	1988
Alabama	54%		41%		23%	
Alaska	45%	30%	55%	50%	30%	20%
Arizona	27%	15%	33%	15%	22%	27%
Arkansas	18%	16%	18%	20%	7%	10%
California	31%	23%	31%	4%	15%	9%
Colorado	38%	32%	42%	32%	34%	9%
Connecticut	29%	36%	28%	26%	30%	13%
Delaware	24%	32%	32%	17%	12%	5%
Florida	37%	19%	38%	11%	24%	15%
Georgia	19%	17%	27%	12%	13%	13%
Hawaii	31%	31%	35%	24%	24%	11%
Idaho	20%	21%	31%	42%	26%	15%
Illinois	22%	24%	27%	20%	14%	4%
Indiana	19%	17%	26%	15%	18%	6%
Iowa	42%	19%	42%	12%	23%	12%
Kansas	22%	25%	26%	20%	13%	11%
Kentucky	20%	19%	22%	23%	22%	11%
Louisiana	30%		27%		36%	
Maine	39%	38%	25%	31%	22%	23%
Maryland	38%		35%		29%	
Massachusetts	18%	16%	14%	19%	14%	10%
Michigan	26%	18%	42%	14%	16%	8%
Minnesota	32%	21%	32%	22%	23%	11%
Mississippi	44%		37%		33%	
Missouri	23%	18%	29%	16%	17%	15%
Montana	27%	33%	34%	34%	18%	29%
Nebraska	20%	27%	24%	28%	22%	12%
Nevada	35%	30%	48%	31%	40%	17%
New Hampshire	41%	35%	40%	41%	34%	34%
New Jersey	21%	34%	25%	28%	29%	
New Mexico	26%	17%	33%	26%	37%	13%
New York	23%	15%	27%	13%	9%	6%
North Carolina	31%	31%	29%	34%	22%	19%
North Dakota	30%	27%	39%	30%	18%	21%
Ohio	18%	15%	33%	13%	16%	6%
Oklahoma	24%	26%	24%	25%	31%	26%
Oregon	28%	33%	25%	32%	18%	32%
Pennsylvania	26%	25%	19%	11%	8%	13%
Rhode Island	22%	26%	22%	25%	21%	15%
South Carolina	23%	24%	20%	25%	18%	17%
South Dakota	37%	29%	27%	28%	31%	19%
Tennessee	24%	14%	16%	20%	15%	14%
Texas	22%	25%	31%	25%	17%	19%
Utah	39%	39%	40%	24%	37%	21%
Vermont	28%	37%	37%	26%	26%	21%
Virginia	15%	23%	34%	10%	22%	21%
Washington	33%	26%	46%	28%	19%	15%
West Virginia	39%	39%	40%	38%	31%	44%
Wisconsin	21%	19%	36%	29%	13%	15%
Wyoming	40%	21%	41%	25%	28%	19%
NATION	28%	25%	31%	23%	22%	16%

Neither proponents' figures (cited on page 7) nor NCSL data, however, give a complete and accurate picture of turnover rates in California. The NCSL data:

- are for the lower houses only,
- provide no information on statewide offices,
- show one-year turnover only, rather than turnover in a six- or eight-year period.

Arguments for California's Proposition 140 refer to re-election rates for the Legislature only. No re-election rates are provided for the officials elected statewide whose terms proponents also seek to limit. Only one of California's seven officers elected statewide has served more than two terms, Secretary of State March Fong Eu. State Superintendent of Public Instruction Bill Honig was elected to a third term in June, 1990, to begin in January. Lieutenant Governor Leo McCarthy is seeking a third term on November 6, and Ms. Eu is running for a fifth term.

Proposition 140 uses turnover figures for a single election cycle to justify eight- and six-year term limits. Would it have been more appropriate to match time periods for turnover data with the actual term limits proposed, i.e., turnover in an eight-year period for eight-year term limits?

Arguments for the proposition state that 100 percent of incumbent state senators were re-elected in 1988. However, this analysis fails to note that:

- Almost half of all state senators have served less time in office than the maximum allowed by Proposition 140.
- There are three new state senators who have served less than one year in office.
- Only half of the 40 state senators are elected every two years.

In addition, fully one-third of all Assembly seats have been filled less than eight years.

Specific Term Limits Chosen Produce Re-election Statistics. Several other states have considered maximums of 12 years, and there is on the November ballot in California a competing initiative which supports 12-year term limits. Does a logic supporting term limits support eight-year maximum terms in office only?

If term limits were set at 12 years - as proposed in Proposition 131 - the statistics would reveal that only 13 of 40 state senators have served more than that maximum. Also, under a 12-year limit, 67 of 77 Assembly members now serving would have been in office less than that twelve years.

Gaps in Proponents' Re-election Statistics. Statistics cited in Proposition 140 refer to re-election rates of the incumbents who ran again. A number of academicians suggest that statistics cited by supporters of term limits are misleading because supporters exclude all offices vacant or being vacated. To reflect accurately true turnover, statistics should include the seats of those

who choose to retire, those who die in office, and those who choose to seek another office.

Re-elections May Reflect District Support. Though there is considerable criticism of officeholders in general reflected in the public media, there is evidence of significant support for legislators within their districts. Many legislators are honored within their districts by teachers' groups, business groups, advocates for the disabled, local police organizations, and others for their activities on behalf of the interests of the district.

What is the significance of this contradiction between opinions held of officeholders as a body and the opinions about specific district representatives held by members of the individual districts? Can all of these activities to honor state elected officials be attributed simply to the efforts of local groups to ingratiate themselves with, and to influence, powerful politicians? Is there some significant level of appreciation for the efforts of these elected officials, even if they have been repeatedly re-elected?

Re-election Rates May Reflect the Times. California and the United States have over the last eight years been experiencing the longest sustained economic "boom" in our history. Are re-election rates reflecting public opinion about this phenomenon?

Additional Explanations for Low Involvement. The public's "disgust with politicians" is alleged by some to be responsible for low voter turnout. This low turnout also is said to contribute to high re-election rates. Are there other explanations for the declining turnout? To what extent, for instance, do the negative opinions which do exist arise as a result of years of criticism of government generally by those who philosophically believe in a minimalist role for government?

Or to what extent are re-election rates, and a decline in voter turnout, the result of a general decline in public involvement with government-related issues? A number of studies have shown that the store of public knowledge about geography, history, current events, and legislative representation is low. How involved should we expect an uninformed voter to be? Would a program to increase voter participation be more likely than term limits to increase voter turnout and raise turnover rates?

Representative Democracy Grants Power to Officeholders. Ballot arguments for Proposition 140 speak critically of an electoral system that gives an elite - 120 members of the Legislature - "almost limitless" power over 30 million Californians. To what degree do proponents support the basic idea of representative democracy, in which a minority group of elected officials represent a far larger number of citizens and, in the process, make the law? Should all significant power be removed from the hands of these elected representatives?

In addition, it is unclear why the proponents did not similarly back up their term limit arguments by pointing to alleged abuses resulting from the power of the governor and other statewide officers, whose terms they also propose to limit. The ratio of elected official to the governed is much higher in this case.

Already Many Constraints on the Power of State Elected Officials. Many public policy analysts contend that the powers of legislators are already

limited in so many ways that they are effectively prevented from implementing policies crucial to the economic health of state government. Proposition 13, Proposition 4 (the state appropriations limit), the Political Reform Act, the Constitution and innumerable statutes place great constraints on the powers of legislators.

All budget bills, for instance, require a two-thirds vote for approval, constituting a significant obstacle to the passage of such legislation. Additionally, legislators are required to provide a guaranteed level of school spending regardless of other program needs, cannot exceed state spending formulas, and are required to spend certain revenues on specified programs. There are also other types of limits on the powers of legislators, including the governor's line-item veto. Legislators also cannot now send out newsletters to their constituents about the legislation they are working on without paying for the mailing out of funds they have raised themselves.

Lifelong Limit on Terms May Not Be Necessary. The power of incumbency allegedly gives elected state officials a hold on an office. Once out of office, what would be the source of their power? If the source of power is remaining campaign funds or personal contacts, what gives a previous officeholder an edge over current officeholders, or over those with closer contacts, or over those whose policies engender greater support? Is a ban for life on serving again actually required to achieve the purposes of Proposition 140? Would a ban on consecutive terms of office be more reasonable?

UNINTENDED CONSEQUENCES

The drafters of Proposition 140 state in a "findings" section of the proposition that they seek to redirect an electoral system that has become "less free, less competitive, and less representative." They want to restrict the power of incumbents and encourage new qualified "citizen representative" candidates to seek office. It is problematic whether the means chosen by the proponents will accomplish their ends. The intentional changes wrought by the proposition may also be accompanied by unintended consequences.

Voters Could be Disenfranchised. Most obviously, Proposition 140 would result in the removal of both good and bad representatives after the expiration of the allowed time in office. It is clear that voters could, in a sense, be disenfranchised.

A majority's desire to retain a particularly effective representative would be thwarted if strict term limits are written into the state's Constitution. The voters could not vote for this person if they wanted to. This aspect of Proposition 140 seems to be in conflict with its stated goal of making the system more representative of the will of the electorate.

Potential for Reduced Representativeness, Reduced Responsiveness. Proposition 140 could make the electoral system less representative in other respects. Once an officeholder has been elected to a second, and final, term, the external incentive to be responsive to constituents is much reduced.

Since the incumbent cannot be re-elected, less is to be gained by working long hours or providing the best possible services. The officeholder might be less inclined to represent the interests of his or her district, despite the importance assigned to this function of the office by the residents of the district. Voters must evaluate the extent to which holding out to incumbents the prospect of

gaining another term has served to enhance the responsiveness of representatives.

Definition of "Citizen Representative" is Narrow. It is a generalization to conclude that only new people in office are "citizen representatives;" this generalization obscures some aspects of the term-limits issue.

- An individual does not cease being a citizen, or even necessarily cease reflecting the views of constituents simply because he or she has served eight years in office. In fact, an individual may continue to learn over the years how better to serve the citizens of the district. This may make the individual more of a "citizen representative" and make the system as a whole more representative.
- Many of the Founding Fathers themselves, and many of the "citizen representatives" they supported, were in fact an educated and/or monied elite. The term "citizen representative" in the time of the Founding Fathers was primarily used to contrast the proposed new governmental system with old European systems in which the nobility held most of the power. Supporters of Proposition 130 have chosen to define "citizen representative" in a way that undergirds their other arguments, but other interpretations of this phrase may be more accurate.
- Legislators come from almost as many different backgrounds as the citizens they represent, including teachers, farmers, engineers, nursery operators, lawyers, and janitors.
- Statistics showing a rise in the number of officeholders who are full-time legislators ("professional politicians" by a Proposition 130 definition) may inaccurately portray the actual variety in the backgrounds of citizens who become officeholders. Some legislators, wary of being labeled a "tool of special interests" because of their business, union, or other backgrounds, choose to call themselves full-time legislators. Or, though they may have another career or occupation, they may call themselves full-time legislators to show their level of dedication to public service.

Eliminating re-election of citizens who are representative of their districts, responsive, and ready to compete with opposition candidates may actually be detrimental to the electoral system.

Pool of Potential Candidates May Shrink or Change. Does Proposition 130 change the equation governing who can afford to run for public office? For those with an established career, for instance, there may be an unacceptable risk in moving to an elected position where there is no option for a career. The years lost in building customers or clientele for businesspeople and professionals may represent too great a cost. The rich, the poor, and those finding it difficult to establish a career might be the most likely candidates - leaving the middle class largely unrepresented.

Another possibility is that large organizations might choose to "sponsor" candidates from their organizations, as some companies did in earlier years of California history. The organizations might guarantee the candidate return

rights to their former positions, or other privileges, as compensation for the risks of time (and pension benefits) lost while away from their regular work.

Quality of Public Policy May Be Negatively Affected. Supporters of Proposition 140 want to open up the offices and let "good people" move in and up. They believe there are many fine people who want to serve, but are blocked from doing so by the power of the incumbent.

While there may be serious problems in California requiring new action by legislators, it does not follow logically that new ideas are necessarily appropriate or workable ideas. One might as logically take the opposite, and perhaps overstated, view of one of the opponents of term limits:

I'm afraid that this is the old dream that is based on an equation of innocence with virtue, isn't it? I find that innocence can more accurately be equated with ignorance and usually leads not to creativity but to incompetence.

-- Jeane Kirkpatrick, How Long Should They Serve?
AEI Forum Series

The most accurate statement that can be made on this subject is that there is value in having people of experience in government - people with detailed, first-hand knowledge about the history, operations, and programs of state government. Such experienced and knowledgeable lawmakers would be in shorter supply under Proposition 140.

In particular, the chairpersons of policy committees may often be among the best-informed individuals in the state in the areas over which their committees have jurisdiction. This knowledge is accumulated through years of input from the public during legislative hearings, research commissioned by the chairpersons or other members, and other sources. It is often supplemented by direct experience in the field, and it extends to administrative, fiscal and other aspects of the policy area. Rapid turnover among these and other legislators has the potential of negatively affecting the quality of public policy.

Disparate Regional Effects. There could be disparate regional impacts if voters approve Proposition 140. Certainly, services to constituents in all districts are going to be affected by the legislative budget cuts in the proposition, but some districts have particularly effective and long-serving legislators to represent their interests.

Certain districts are represented by legislators who chair important committees, and committees which dispense large amounts of government funds. Is it reasonable to presume, as proponents of the measure do, that the quality of legislation and the quality of service that will be provided by those who replace the incumbent will be equally good, in both the short and long term?

Legislature May be Increasingly Factionalized. It is possible that the proposition may indeed reduce the power of legislative leaders. It is not clear, however, that this is an unmitigated plus.

One of the criticisms often heard about both Congress and state legislatures is that, due to the reduced power of political parties and other factors, law-making bodies are too frequently factionalized - with each legislator going his or her own way. The loss of experienced legislative leaders might actually in-

crease the prospects for a rudderless and ineffective legislative body. This, too, would likely affect the quality of public policy.

California's Power with Respect to Feds, Other States May Decline. There is also the issue of state relationships with the federal government and with other states. If California legislators are weaker, and if they have only six or eight years to serve before they must leave, they may be more easily dismissed or ignored by policy makers at the federal level or by other states' officials. Legislators who fill their term limits in one house could serve in the other, but continuity in each house still would be affected.

California depends on federal dollars for all or part of many of its programs, and other programs are integrated with those of other states. If the long-term influence of California policy makers is reduced, the funding and quality of these programs may be affected.

Power of Special Interests Could Be Enhanced. Would the proposition do what it claims it would do, i.e., break questionable links between lawmakers and special interests? There is little to indicate that this would occur, and there is reason to think the influence of special interests might actually increase.

Non-incumbents as well as incumbents, for example, would continue to need money to run their campaigns. More frequent and highly contested elections would likely enhance the role of those with the bankrolls to finance campaigns.

In addition, incumbent politicians (as Federalist Number 72 pointed out), knowing their term in office is constitutionally limited, may be more inclined to seek arrangements with special interests for employment or other favors upon leaving office in return for votes on matters of importance to those special interests.

Newly elected legislators, having less direct experience in governing and smaller staffs (see section on legislative operating budget cuts), would be more dependent on those with the staff and resources to do research and produce position papers. There could be considerable pressure to rely on the material provided by both lobbyists and bureaucrats.

This century Californians have continuously sought to reduce any dependency on the part of the Legislature, recalling the excessive influence of business interests such as Southern Pacific Railroad and individuals such as Artie Samish. Samish, a lobbyist earlier this century who called himself "the secret boss of California," boasted that he controlled "my Legislature" like a puppeteer. Twenty-four years ago, Californians approved a move from a part-time to a full-time Legislature in part to make it more independent and to insulate it to a greater degree from special interests. An increased dependence on an unelected bureaucracy and the representatives of special interests would be a countertrend to the past expressed preferences of California voters.

Such considerations of the "tradeoffs" associated with the proposition should not be lightly dismissed. Even if voters are dissatisfied with the current Legislature and current policy, they need to evaluate the proposed remedies carefully.

Will continuing campaign and ethics reform have more impact on the problems perceived by the proponents of Proposition 140? Would they have this impact without the unintended consequences of the proposition?

Opponents of Proposition 140 state that a term-limit proposal is a blunt and ineffective instrument to use to guide the behavior of legislators and special-interest representatives. There is an existing body of law governing the appropriate and legal means for interest groups to carry out their advocacy. The Legislature and voters have significantly tightened these laws in just the last year.

A legislatively approved package and the passage of Proposition 112, placed on the June 1990 ballot by the Legislature, put into place strict new rules governing conflicts of interest, the acceptance of honoraria and gifts, lobbying after leaving government, and other government-related activities. Should more drastic and perhaps less-targeted measures be implemented before these new laws have been in effect long enough to have an impact?

Insurance Commissioner Not Included in Proposition 140. The new office of state insurance commissioner, created in 1988 by initiative statute rather than by initiative constitutional amendment, is not mentioned in Proposition 140. Therefore the insurance commissioner would not be restricted by Proposition 140 from serving beyond two terms. (Proposition 131, by contrast, would create consecutive-term limits for all statewide elected officials including the insurance commissioner.) What would be the effect of allowing one of seven statewide officials to remain eligible to serve an unlimited number of terms?

PROPOSITION 140

Legislative Expenditures

PROPOSITION 140

Legislative Expenditures

DESCRIPTION OF SECTION

Section 5 of Proposition 140 adds a new section to Article IV of the state Constitution, limiting legislative expenditures. This section makes two changes to current law. First, it reduces legislative spending in fiscal year 1991-92 and, second, it caps future legislative spending. Specifically, Proposition 140:

- Reduces legislative spending in 1991-92 by requiring total aggregate expenditures to be the lesser of (1) \$950,000 per member or (2) 80 percent of the amount expended in the current fiscal year; and
- Ties future spending to the growth in the state's appropriation limit.

Expenditures specifically subject to reduction and limitation include compensation of members, compensation of employees of members, and operating equipment and expenses.

Following is an explanation of the terminology used in this section.

State Fiscal Year: The measure provides that expenditure limitations will take effect "in the fiscal year immediately following the adoption of this Act." California's fiscal year runs from July 1 to June 30. Therefore, this section of the measure would take effect on July 1, 1991.

Total Aggregate Expenditures: The measure applies to the "total aggregate expenditures of the Legislature for the compensation of members and employees of, and the operating expenses and equipment for, the Legislature."

The Governor's Budget lists four separate items in the legislative section — Legislature, Contributions to the Legislators' Retirement Fund, Auditor General, and Legislative Counsel Bureau. Does total aggregate spending refer to all of these budget items? Or selected expenditures? While there is no formal legal opinion regarding this issue, the legislative analyst's office has interpreted total aggregate spending to include the legislature's budget and the auditor general's budget, but not the legislative counsel or retirement funds.

Included in direct legislative spending subject to limitation would be salaries of senators and assembly members, per diem expenses of legislators, salaries and benefits for employees, travel for employees and legislators, automotive repairs and expenses for state-leased cars used by legislators, communications (including telephone, postage, freight, and FAXes), office supplies, printing, publications, building expenses, furniture, equipment, special studies, and other assorted expenses.

Expenditures subject to future reduction and limitation (including the auditor general's office) total \$180.9 million in 1990-91.

Expenses to Be the Lesser of Two Options: The measure requires total aggregate expenditures to not exceed "an amount equal to nine hundred fifty thousand dollars (\$950,000) per member for that fiscal year or 80 percent of the amount of money expended for those purposes in the preceding fiscal year, whichever is less."

A simple calculation determines which option applies:

\$950,000	-or-	\$180,893,000
x 120		x .80
\$114,000,000		\$144,714,400

Assuming that legislative expenditures otherwise would grow by 7.5 percent in the next year (average growth over past 10 years), Proposition 140 would result in 1991-92 expenditures falling by over 40 percent.

State Appropriation Limit: Total state appropriations are subject to a limit, placed in the state Constitution by Proposition 4, of 1979. Proposition 111, approved by the voters in June 1990, amended the limit. Generally, the increase in the limit is equal to the percentage in California per-capita personal income and state population (adjusted for growth in the school enrollment). Proposition 140 limits the growth in future legislative expenditures to the growth in the state appropriation limit.

**DRAFTER'S INTENT:
LEGISLATIVE
EXPENDITURES**

In general, the intent of the drafters of Proposition 140 is to limit the advantages and powers of political incumbency by restricting retirement benefits, reducing state-financed incumbent staff and support services, and limiting the number of terms served by officeholders.

Specifically, the drafters intend for the limit on legislative expenditures to reduce the ability of legislators "to pay for staff and support services at state expense;" a condition which the drafters believe contributes "heavily to the extremely high number of incumbents who are re-elected."

In ballot arguments, the proponents of Proposition 140 contend that the measure will cut state expenses and reduce legislative staff. Proponents argue that "by reducing the amount they (legislators) can spend on their personal office expenses, Proposition 140 will cut back on the 3,000 political staffers who serve the Legislature in Sacramento. In the first year alone, according to the legislative analyst, it will save taxpayers \$60 million."

Further, the drafters of Proposition 140 intend to reduce legislative "frills" — such as "guaranteed salaries, extravagant pensions, limousines, air travel, and other luxury benefits."

**ARGUMENTS IN FAVOR
OF INITIATIVE:
LEGISLATIVE
EXPENDITURES**

Helps Curb State Spending. Proposition 140 slashes legislative spending by 40 percent, saving the state over \$80 million, if it is assumed that in 1991-92, absent the measure, legislative spending would grow by 7.5 percent (as it has, on average, for the last decade).

Limits Future Growth of Legislative Budget. Tying the growth in the Legislature's budget to the growth in the state appropriation limit would restrict the short-term future growth of legislative expenditures to between 8 and 8.5 percent annually, based on rough estimates by the Commission on State Finance. Assuming a starting figure of \$114 million in 1991-92, the Legislature's budget would increase as follows for the next five years:

Table 3		
Fiscal Year	8 Percent Growth in Limit	8.5 Percent Growth in Limit
1991-92	\$114,000,000	\$114,000,000
1992-93	123,120,000	123,690,000
1993-94	133,209,600	134,203,650
1994-95	143,866,368	145,610,960
1995-96	155,375,677	157,987,892

**POLICY IMPLICATIONS:
LEGISLATIVE
EXPENDITURES**

Legislative Budget is Fraction of State Spending. If made today, Proposition 140 would reduce state expenditures by approximately \$67 million. In 1990-91, California's total state budget for government spending is approximately \$52.5 billion. So \$67 million is equal to roughly 0.12 percent of total budget expenditures.

Looking at it differently, this year's general fund (the major funding source for most programs) is approximately \$42.6 billion. Legislative spending will equal less than 1 percent (0.42 percent) of total general fund spending. A savings of \$67 million would reduce the general fund expenditures by 0.16 percent.

Measure Does Not Target Cuts. While the drafters argue Proposition 140 would reduce "guaranteed salaries, extravagant pensions, limousines, air travel, and other luxury benefits," the measure does not specify where the cuts are to be made. If reductions are made in a partisan manner, critical staff experts could be eliminated instead of legislative "frills."

Decline in Per-Capita Legislative Expenditures. While not explicitly stated, it can be assumed that proponents of Proposition 140 believe that legislative spending is uncontrollable. However, numbers don't support this contention.

The legislative analyst's office reports that on a per-capita basis, legislative expenditures have actually declined over the past 10 years. When taking inflation into account, in 1981-82 per-capita legislative expenditures were \$4.12, while 1990-91 expenditures were \$3.98 for each Californian.

Further, the analyst notes that legislative expenditures have grown at a slower rate than total state expenditures. From 1981-82 through 1989-90, total expenditures grew at an average annual rate of 8.6 percent — compared with a legislative growth rate of 7.5 percent. When comparing growth rates of the nine major state government program areas, expenditures for the Leg-

islature ranked third from the bottom. The following chart shows the growth rate by program area:

Program	Average Annual Change 1981-82 to 1989-90
Criminal Justice	17.8 percent
Resources	11.3 percent
Capital Outlay	9.2 percent
Welfare	9.2 percent
General Government	8.5 percent
K-12 Education	8.5 percent
Health	7.7 percent
Legislature	7.5 percent
Transportation	7.2 percent
Higher Education	6.9 percent
ALL EXPENDITURES	8.6 percent
Source: Legislative Analyst Office	

According to an informal estimate by the Commission on State Finance, the state appropriation limit is likely to grow at an annual rate of 8 to 8.5 percent. This growth "limit" established by Proposition 140 is actually higher than the average annual increase in legislative expenditures over the past 10 years.

Percentage of Legislative Spending in Budget is Stable. In 1971-72, legislative expenditures were equal to 0.58 percent of the total general fund budget. This number has fluctuated little over the 20-year period, remaining between 0.32 percent and 0.58 percent of the general fund. In 1990-91, legislative expenditures will equal approximately 0.42 percent of the general fund.

How Cost Effective Is This Measure? Proposition 140 has not been subject to a cost-benefit analysis. It is clear that the measure would produce immediate savings to the general fund of approximately \$67 million. However, the measure may also incur short-term and long-term costs.

According to a letter written by Cliff Berg, chief executive officer of the Senate, 76 percent of the current Senate budget is used for salaries and benefits. The remaining 24 percent is used for other expenditures, such as operations, communications, contracts and leases. According to Berg, "...the only way to meet its requirements would be a substantial reduction in Senate staff, which could reach 50 percent." The staff of the Assembly, joint offices, legislative analyst, and the auditor general's office would also be cut, to an unknown degree.

Immediate short-term costs of the measure could include a "golden handshake" to encourage the retirement of older staff and unemployment benefits paid to those employees unable to immediately find new jobs. Given the large number of employees displaced, these costs could be significant.

Long-term costs, while difficult to quantify, may be greater. The financial limits of this measure apply not only to expenditures used to run members' offices, they also apply to the independent policy branches of the Legislature, all standing policy committees, joint committees, the legislative analyst's office, and the research offices. These offices provide analytical reviews of legislation and potential legislation. Severe reductions in these offices could result in an increase in the number of bills that are subject to litigation and dispute.

The auditor general's office, potentially subject to cuts under the provisions of Proposition 140, provides independent audits of the programs of state government. By performing financial, performance, and investigative audits and special studies, the auditor general provides the Legislature with objective information about the state's financial and management condition. Because the auditor general's office evaluates the administrative branch of government, the office is located within the Legislature to avoid conflicts of interest.

According to the auditor general's office, "By implementing (auditor general's) recommendations made from January 1989 to June 1990, the state could save \$75 million." Cuts to the auditor general's office could result in a long-term decline in the efficiencies of some government programs — resulting in increased costs to the state.

Measure May Fall Most Heavily On Senate. By cutting expenditures to an average \$950,000 per member, this measure has the potential of reducing Senate expenditures to half that of the Assembly. The 80-member Assembly could receive \$76 million in 1991-92, while the 40-member Senate may receive only \$38 million.

Currently, each senator represents approximately 740,000 people, while each Assembly member has about 370,000 constituents. On a per-capita basis, senators would receive \$1.28 per constituent, while Assembly members would receive \$2.57. Given that Senate districts are geographically larger, have a greater population, and a diverse constituency, is it reasonable to expect expenditures to be equal to their Assembly counterparts?

According to Berg, "The issue of which formula will be used needs to be settled between the two houses. Either way, Senate expenditures would be cut between 44 or 51 percent (based on anticipated 1991-92 expenditures)."

State Already Has Limit. Total state appropriations are already subject to the limits established by Article XIII B of the state Constitution. Legislative spending, as part of total budget appropriations, are also subject to this limit. Proposition 140 would reapply the limit specifically to legislative expenditures.

Is Appropriation Limit A Proper Measure? The state appropriation limit applies to appropriations — not to expenditures. This distinction is not a minor one. Appropriations are authorizations from a specific fund to a specific agency to either make expenditures or incur obligations for specified purposes, within a specified time period. Generally, appropriations are limited to a one-year time period, but continuous appropriations occur on an ongoing basis. Expenditures designate the amount of an appropriation that has already been spent.

For example, the budget may contain an appropriation for Assembly member salaries of \$4,240,000. However, due to vacancies, actual salaries paid (expenditures) may total only \$4 million.

Proposition 140 applies an appropriation limit to expenditures. In the above example, would the following year's expenditures be based on the \$4 million expenditure, plus the growth in the state appropriation limit? Or, like the rest of the budget, would the base be the prior year's \$4,240,000 appropriation plus the state limit growth rate?

How Do Other States Compare? According to the National Conference of State Legislators, no other states cap legislative spending. Other states, like California, do apply a cap to overall spending. Does Proposition 140 make sense when comparing California's legislative expenditures to other states?

According to the legislative analyst, California "ranks roughly in the middle of the states in legislative expenditures." In 1987-88 (the latest year for which data is available), California ranked 24th in legislative expenditures as a percentage of total state expenditures. Of the 10 largest states, California ranked 5th.

When measured on a per-capita basis, California ranked 17th of all states in legislative spending. By this measure California ranked 4th of the 10 largest states.

Precedent Could be Set for Restricting Certain Items. This measure restricts only legislative spending. However, it sets a precedent for restriction of other selected budget items.

Spending Restrictions Apply Only to the Legislature. Proponents of the measure argue that "(t)o restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office ... state-financed incumbent staff and support services (must be) limited."

However, this provision of the measure does not limit the expenditures of the state constitutional officers. Nor does it limit the expenditures of the judiciary. It only limits the expenditures of the Legislature. The division of powers among the Legislature, the executive branch and the judiciary have been compared to a three-legged milking stool. Would limiting the expenditures of one branch "tip the stool"?

Maintaining a balance of power among the three branches of government is an integral part of the democratic system. The Legislature has an important function as both a policy-making body and an oversight body. Further, the Legislature serves as an ombudsman between the public and the bureaucrats. Proposition 140 cuts the Legislature — but does not affect the bureaucracy.

The legislative analyst compared expenditures of the three branches of government over a 10-year period. The average annual growth rate of legislative expenditures was 7.5 percent, comparable with an approximate growth rate of 7.0 percent for the Governor's office. Expenditures for the judicial branch have grown almost three times faster — at an average annual rate of 19 percent.

Political scholars have noted that the legislative branch of government is an easy target of criticism and scorn. The following quotation responds to criticism of Congress, but the same issues can be applied to any state Legislature:

Much of this ridicule is unjustified. Critics usually forget that our national legislature is particularly exposed. In the first place, Congress does nearly all its work directly in the public eye. Unfortunate incidents — quarrels, name-calling, evasive actions, inaccurate statements — that might be hushed up in the executive or judicial branches are almost always observed by journalists. In the second place, Congress by its nature is controversial and argumentative. Its members are found on both sides, some times on half a dozen sides, of every important question, and the average citizen holding one opinion is likely to be intolerant of other views and the legislators holding them. Also there is a considerable difference between merely holding an opinion and writing legislation. (James Burns, J.W. Peltason, Thomas Cronin, Government by the People, 1978, p. 251)

PROPOSITION 140

Legislators' Retirement

PROPOSITION 140

Legislators' Retirement

DESCRIPTION OF SECTION

Section 4 of Proposition 140 would restrict legislative retirement benefits. Specifically, these provisions, to be added to the California Constitution, would require legislators elected or serving after November 1, 1990, to participate in the federal Social Security program and preclude the accrual of other pension and retirement benefits resulting from legislative service.

Any vested pension or retirement benefit (those benefits to which title is already held) would be exempt from the restrictions proposed in this section; however, additional vesting or accrual would be prohibited.

This section contains no indication of any intent to affect the state retirement benefits received by former members of the Legislature.

BACKGROUND ON THE LEGISLATIVE RETIREMENT SYSTEM

State legislators may elect to join the Legislators' Retirement System (LRS) upon assuming office. The Legislators' Retirement Fund provides benefits to legislators, legislative statutory officers (secretary of the Senate, sergeants at arms of the Assembly and the Senate, and the chief clerk of the Assembly), state constitutional officers (governor, lieutenant governor, attorney general, controller, secretary of state, treasurer, superintendent of public instruction, and Board of Equalization members), as well as to their survivors. This fund is administered by the Public Employees' Retirement System (PERS).

Depending on when a legislator was elected, the employee share of the contribution to the Legislators' Retirement Fund will vary. For legislators first elected after May 4, 1972, and under certain conditions for legislators whose districts are affected by reapportionment, the employee rate of contribution is 8 percent. For legislators elected earlier, the rate is 4 percent of salary. The employer's share of the contribution is 18.81 percent of a legislator's salary. Similar contributions provisions apply to state constitutional officers.

Most legislators are not exempt from participating in the federal Social Security program. Those legislators who are exempt "opted out" of participation in the federal Social Security system when given the option to do so in 1967, thus releasing themselves from such participation for the remainder of their time in state service. New legislators have Social Security coverage upon assuming office.

Legislators are eligible for service retirement benefits at age 60 with four or more years of service; at any age with 20 or more years of service; or with five years of service at any age on a reduced basis.

DRAFTERS' INTENT: LEGISLATORS' RETIREMENT SYSTEM

Sponsors of Proposition 140 say the intent of this section is to end extravagant pensions for legislators and to eliminate career politicians from the Legislature.

SUMMARY OF KEY ARGUMENTS FOR THE CHANGE

Proponents of the initiative cite several reasons for restricting legislators' retirement:

- Most other Californians must depend on federal Social Security and their own savings for retirement benefits.
- Service in the Legislature is not intended to be a career occupation.
- The legislative pension system often pays a legislator more than what she or he received while in office. (Proponents claim that, in fact, 50 former officials receive \$2,000 or more per month from the legislative retirement fund.)
- Pension and retirement benefits (other than federal Social Security) encourage incumbents to remain in office.
- Any level of contribution by the state for the purpose of legislators' retirement is excessive. (According to the legislative analyst, the restrictions on legislative retirement benefits proposed in this measure would reduce state costs by approximately \$750,000 annually.)

POLICY IMPLICATIONS

In drafting this measure, particularly this section, the sponsors seemed unaware of a number of limitations which have not been addressed.

Some legislators may not be able to participate in the federal Social Security program. This section would require current and future legislators to participate in the federal Social Security program, which would require the state to pay the employer's share of the contribution necessary for participation.

It appears that federal law possibly may allow only legislators who are presently participating in the federal Social Security program to continue to participate if the LRS were eliminated. Based on federal rules cited in the federal government's Handbook for State Administrators of the Social Security System, future legislators may be prohibited from the program. (See the Appendix for reference to this federal rule.) On the other hand, under a 1959 master agreement between the Social Security Administration and the state of California, future legislators may be allowed to join the Social Security system.

Restrictions on retirement benefits apply only to the Legislature. This section imposes no restrictions or changes on the state retirement benefits of state elected officials holding the constitutional offices of governor, lieutenant governor, attorney general, controller, secretary of state, treasurer, superintendent of public instruction, or sitting on the Board of Equalization. Yet the LRS also provides benefits to these officers.

Similarly, this section does not apply to local elected public officials, such as members of city councils and county boards of supervisors. Of the 58 counties in California, 35 counties contract with PERS to administer benefits for county elected officials; 20 counties administer their own retirement systems pursuant to the County Employees Retirement Act of 1937; and three charter

counties administer their own independent retirement systems. Many cities in California contract with PERS to administer their retirement systems. There are approximately 1,100 PERS agencies throughout the state.

Additionally, other public officials, such as judges, are unaffected by this section.

The PERS Board will be considering the effects and ramifications of Proposition 140 at its September 17, 1990, meeting.

Because this section would limit retirement benefits for some, but not all public officials, it would create an inequity.

This proposal falls short of comprehensive pension reform. This section does not consider the differences among current and future legislators with respect to the accrual of pensions and retirement benefits resulting from service outside of the Legislature.

A comprehensive pension reform would treat public officials equally. It also would seek to avoid discouraging new citizens from entering the Legislature.

UNINTENDED CONSEQUENCES

The intent of the sponsors of Proposition 140 is to address "the increased concentration of political power in the hands of incumbent representatives [which] has made our electoral system less free, less competitive, and less representative." By restricting legislators' retirement benefits, the sponsors are seeking "to restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office..."

One could argue that this section adds barriers to seeking legislative office, thereby making the electoral system in the state actually less free, less competitive, and less representative. For example:

- **Restrictions on retirement benefits likely would deter prospective legislators from seeking office.** Without the added security of an employer-sponsored retirement plan, many educated and talented persons may pass over the option of serving as legislators and seek work with employers who do provide such security.

This section could discourage local elected officials from running for office in the state Legislature, encouraging them to stay in their current positions longer. Local elected officials are commonly viewed as a potentially qualified pool of candidates for higher office.

- **This proposal would discriminate against lower-income candidates.** Restricting pensions and retirement benefits would have a greater negative impact on legislative candidates from lower-income backgrounds than those candidates from more affluent backgrounds. Lower-income candidates would have fewer financial resources to provide economic security for themselves and their families.

- **More retired citizens would be encouraged to seek legislative office.** Because the restrictions proposed in this section concern only those retirement benefits resulting from service in the Legislature, one may reasonably expect older adults who have retired from service in other professions and occupations to seek legislative office.
- **Restricting retirement benefits could create legal problems.** How would the vested contractual retirement rights of current legislators be impacted? Would legislators be able to exercise the right to "buy back" prior service if Proposition 140 passes? (Service credit provisions under the LRS allow members of the system the option before retirement to have any previous legislative service credited; that is, a member may buy back prior service or have it credited if they pay the required contributions. Similar service credit provisions exist for members of many other retirement systems, including the PERS.)

These legal questions are among those that would need to be resolved if Proposition 140 is approved by the voters.

- **The termination of pension and retirement benefits for legislators sets an undesirable precedent for other employers.** The passage of Proposition 140 could encourage other employers to terminate employer-sponsored retirement plans to save costs. Yet state and federal public policies have encouraged employer pension plans as a supplement to Social Security.
- **Restrictions on retirement benefits could significantly reduce funds coming into the LRS.** The LRS pays benefits to retired members and their beneficiaries partially from the contributions of the employer and active members. According to the LRS staff, if this measure is approved, continuing employer/member contributions will be made only on behalf of state constitutional officers and legislative statutory officers, thus reducing the amount of funds coming into the LRS. Until the salary bases for future retirements are established, the amount of the unfunded liability to the LRS that would result from the passage of this measure is unknown.

IMPACT ON CURRENT LEGISLATURE

According to the LRS staff, 97 legislators are currently members of the LRS. In the Senate specifically, according to Senate Fiscal Records, of the 39 senators, 38 are members of the LRS, and one is not. Of the 38 LRS members, 33 are participating in the federal Social Security program, and five are not.

It is uncertain whether these five members would be able to join the Social Security system after the November 1, 1990, date because the election not to join the system cannot be repealed, according to federal law.

Based on current LRS membership, the potential cost-savings to the state would be as follows:

LRS Members:	97
Legislator Salary in 1991-92:	x \$45,000
Employer's Share of LRS Contribution Paid by the State:	x 15.32%*
TOTAL COST SAVINGS:	\$668,718

* Per the legislative analyst's office, if Proposition 140 is approved, the state would continue to pay 3.49 percent of legislators' salaries to the LRS for retirement benefits which have already been accrued, but have not been funded.

APPENDIXES

APPENDIXES

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Limits on Terms of Office, Legislators' Retirement, Legislative Operating Costs. Initiative Constitutional Amendment

Official Title and Summary:

LIMITS ON TERMS OF OFFICE, LEGISLATORS' RETIREMENT, LEGISLATIVE OPERATING COSTS. INITIATIVE CONSTITUTIONAL AMENDMENT

- Persons elected or appointed after November 5, 1990, holding offices of Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Board of Equalization members, and State Senators, limited to two terms; members of the Assembly limited to three terms.
- Requires legislators elected or serving after November 1, 1990, to participate in federal Social Security program; precludes accrual of other pension and retirement benefits resulting from legislative service, except vested rights.
- Limits expenditures of Legislature for compensation and operating costs and equipment, to specified amount.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- The limitation on terms will have no fiscal effect.
- The restrictions on the legislative retirement benefits would reduce state costs by approximately \$750,000 a year.
- To the extent that future legislators do not participate in the federal Social Security system, there would be unknown future savings to the state.
- Legislative expenditures in 1991-92 would be reduced by about 38 percent, or \$70 million.
- In subsequent years, the measure would limit growth in these expenditures to the changes in the state's appropriations limit.

Analysis by the Legislative Analyst

Background

There are 132 elected state officials in California. This includes 120 legislators and 12 other state officials, including the Governor, Lieutenant Governor, and Attorney General. Currently, there is no limit on the number of terms that these officials can serve. Proposition 112, passed by the voters in June 1990, requires the annual salaries and benefits (excluding retirement) of these state officials to be set by a commission. Most of these officials participate in the federal Social Security system, and all have the option of participating in the Legislators' Retirement System. The vast majority of the 132 elected state officials participate in this retirement system. The system is supported by contributions from participating officials and the state.

Funding for the Legislature and its employees is included in the annual state budget. Before it becomes law, the budget must be approved by a two-thirds vote of the membership of both houses of the Legislature and must be signed by the Governor.

Proposal

This initiative makes three major changes to the California Constitution. First, it limits the number of terms that an elected state official can serve in the *same office* (the new office of Insurance Commissioner is not affected by this measure). Second, it prohibits legislators from earning state retirement benefits from their future service in the Legislature. Third, it limits the total amount of expenditures by the Legislature for salaries and operating expenses.

The specific provisions of this measure are:

Limits on the Terms of Elected State Officials

- The following state elected officials would be limited to no more than two four-year terms in the same office: Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Superintendent of Public Instruction, Treasurer, members of the Board of Equalization, and State Senators.
- Members of the State Assembly would be limited to no more than three two-year terms in the same office.
- These limits apply to a state official who is elected on or after November 6, 1990. However, State Senators whose offices are *not* on the November 1990 ballot may serve only one additional term.

Restrictions on Legislative Retirement Benefits

- This measure prohibits current and future legislators from earning state retirement benefits from their service in the Legislature on or after November 7, 1990. This restriction would not eliminate retirement benefits earned prior to that time.
- This measure requires a legislator serving in the Legislature on or after November 7, 1990 to participate in the federal Social Security system. (However, federal law may permit only current legislators who are presently participating in the federal Social Security system to continue to participate in the system. It may also prohibit future legislators from participating in the federal Society Security system.)
- This measure does not change the Social Security coverage or the state retirement benefits of other state elected officials such as the Governor, Lieutenant Governor, and Attorney General.

Limits on Expenditures by the Legislature

- This measure limits the total amount of expenditures by the Legislature for salaries and operating expenses, beginning in the 1991-92 fiscal year.
- In 1991-92, these expenditures are limited to the *lower* of two amounts: (1) a total of \$950,000 per Member or (2) 80 percent of the total amount of money expended in the previous year for these purposes. In future years, the measure limits expenditure growth to an amount equal to the percentage change in the state's appropriations limit.

Fiscal Effect

Limits on the Terms of Elected State Officials. This provision would not have any fiscal effect.

Restrictions on Legislative Retirement Benefits. The provision which prohibits current and future Members of the Legislature from earning state retirement benefit from legislative service on and after November 7, 1990 would reduce state costs by about \$750,000 a year.

To the extent that future legislators do not participate in the federal Social Security system, the measure would result in unknown future savings to the state.

Limits on Expenditures by the Legislature. In 1991-92, expenditures by the Legislature would be reduced by about 38 percent, or \$70 million. In subsequent years, this measure would limit growth in these expenditures to the change in the state appropriations limit.

Argument in Favor of Proposition 140

Proposition 140 will for the first time ever place a limit on the number of terms a State official may serve in office.

A Yes Vote on Proposition 140 will reform a political system that has created a legislature of career politicians in California. It is a system that has given a tiny elite (only 120 people out of 30 million) almost limitless power over the lives of California's taxpayers and consumers.

Proposition 140, will limit State Senators to two terms (8 years); will limit Assembly members to three terms (6 years); and limit the Governor and other elected constitutional officers to two terms (8 years).

By reducing the amount they can spend on their personal office expenses, Proposition 140, will cut back on the 3,000 political staffers who serve the legislature in Sacramento. In the first year alone, according to the legislative analyst, it will save taxpayers \$60 million.

Proposition 140, will end extravagant pensions for legislators. While most Californians have to depend on Social Security and their own savings, the legislative pension system often pays more than the legislator received while in office. In fact 50 former officials receive \$2,000.00 per month or more from the Legislative retirement fund.

Limiting Terms, will create more competitive elections, so good legislators will always have the opportunity to move up the ladder. Term limitation will end the ingrown, political nature of both houses—to the benefit of every man, woman and child in California.

Proposition 140, will remove the grip that vested interests have over the legislature and remove the huge political slush funds at the disposal of Senate and Assembly leaders.

Proposition 140 will put an end to the life-time legislators, who have developed cozy relationships with special interests.

We all remember the saying, "Power corrupts and absolute power corrupts absolutely." But limit the terms of Legislative members, remove the Speaker's cronies, and we will also put an end to the Sacramento web of special favors and patronage.

Proposition 140 will end the reign of the Legislature's powerful officers—the Assembly Speaker (first elected a quarter of a century ago) and the Senate Leader (now into his third decade in the Legislature). Lobbyists and power brokers pay homage to these legislative dictators, for they control the fate of bills, parcel out money to the camp followers and hangers-on, and pull strings behind the scenes to decide election outcomes.

Incumbent legislators seldom lose. In the 1988 election, 100% of incumbent state senators and 96% of incumbent members of the assembly were re-elected. The British House of Lords—even the Soviet Legislature—has a higher turnover rate. Enough is Enough! It's time to put an end to a system that makes incumbents a special class of citizen and pays them a guaranteed annual wage from first election to the grave. Let's restore that form of government envisioned by our Founding Fathers—a government of citizens representing their fellow citizens.

VOTE YES ON PROPOSITION 140 TO LIMIT STATE OFFICIALS TERM OF OFFICE!

PETER F. SCHABARUM

Chairman, Los Angeles County Board of Supervisors

LEWIS K. UHLER

President, National Tax-Limitation Committee

J. G. FORD, JR.

President, Marin United Taxpayers Association

Rebuttal to Argument in Favor of Proposition 140

Proposition 140 is a proposal by a downtown Los Angeles politician to take away your right to choose your legislators. He has a history of taking away voting rights. He and two political cronies voted to spend \$500,000.00 in tax dollars to hire a personal lawyer to defend him against Voting Rights Act violations in Federal Court. Newspapers call it an "outrageous back room deal."

His "Big Bucks" friends, including high-priced lobbyists, have lined his pockets with campaign contributions to help control who *you* can vote for.

- IF 140 PASSES, LOBBYISTS COULD SUBSTITUTE THEIR OWN PAID EMPLOYEES FOR THE INDEPENDENT STAFF RESEARCHERS OF THE LEGISLATURE ELIMINATED BY THIS MEASURE.
- 140 MISLEADS YOU ABOUT THE SO-CALLED "HIGH" COST OF THE LEGISLATURE—THE COST IS LESS THAN ½ PENNY PER TAX DOLLAR.
- THE BIGGEST LIE IS THE FACT THEY DON'T TELL YOU THAT 140 IS A **LIFETIME BAN**.

This is a blatant power grab by Los Angeles contributors and lobbyists who have been wining and dining "Mr. Downtown

Los Angeles" in government for SEVEN TERMS—OVER TWENTY YEARS.

Practice what you preach, "Mr. Downtown Los Angeles," Peter Schabarum. Cut *your own* budget and limit *your own* terms. Don't be piggy and take away people's rights after you have fully eaten at the table.

There is no need for 140. The vast majority of the Legislature *already* serves less than 10 years.

That's *your* choice.

Keep it.

Stop Downtown Los Angeles' power grab.

Vote no on 140!

ED FOGLIA

President, California Teachers Association

DAN TERRY

President, California Professional Firefighters

LINDA M. TANGREN

State Chair, California National Women's Political Caucus

Limits on Terms of Office, Legislators' Retirement, Legislative Operating Costs. Initiative Constitutional Amendment

140

Argument Against Proposition 140

Proposition 140 claims to mandate term limits. But in fact, it limits our voting rights.

This measure takes away the cherished constitutional right to freely cast a ballot for candidates of our choice.

We are asked to forfeit *our* right to decide who *our* individual representatives will be.

PROPOSITION 140'S LIFETIME BAN

140 does *not* limit *consecutive* terms of office. Instead 140 says:

- After serving six years in the Assembly, individuals will be constitutionally *banned for life* from ever serving in the Assembly.
- After serving eight years in the Senate, individuals will be constitutionally *banned for life* from ever serving in the Senate.
- Similar lifetime bans will be imposed on the Superintendent of Public Instruction and other statewide offices.

There are no exceptions—not for merit, not for statewide emergencies, not for the overwhelming will of the people.

Once banned, always banned.

PROPOSITION 140 IS UNFAIR

It treats everyone—good and bad, competent and incompetent—the same.

No matter how good a job someone does in office, they will be *banned for life*.

No matter what cause they may be fighting for or how badly we, the people, want to reelect them, they will be *banned for life*.

You won't even be able to write-in their names on your ballot. If you do, your vote won't count.

That's just not fair.

LIMITS OUR RIGHT TO CHOOSE

The backers of 140 don't trust us, the people, to choose our elected officials. So instead of promoting thoughtful reforms that help us weed out bad legislators, they impose a lifetime ban that eliminates good legislators and bad ones alike at the expense of our constitutional rights.

No eligible citizen should be *permanently banned* for life from seeking any office in a free society. And we should not be *permanently banned* from voting freely for the candidate of our choice.

Resist the rhetoric. Proposition 140 is not about restricting the powers of incumbency. It's about taking away our powers to choose.

PHONY PENSION REFORM

Proposition 140's retirement provisions also are misdirected and counterproductive.

140 does not eliminate the real abuses: double and triple dipping—the practice of taking multiple pensions.

Instead it raises new barriers to public office by banning our future representatives from earning *any* retirement except their current social security.

140's retirement ban won't hurt rich candidates. It will hurt qualified, ordinary citizens who are not rich and have to work hard to provide economic security for themselves and their families.

PROPOSITION 140 GOES TOO FAR

It upsets our system of constitutional checks and balances, forcing our representatives to become even more dependent on entrenched bureaucrats and shrewd lobbyists.

If its proponents were sincere about political reform, they wouldn't have cluttered it with so many unworkable provisions.

VOTE NO ON PROPOSITION 140

**STOP THIS RADICAL AND DANGEROUS SCHEME!
PROTECT OUR CONSTITUTIONAL RIGHTS. VOTE NO ON
PROPOSITION 140'S LIFETIME BAN.**

DR. REGENE L. MITCHELL

President, Consumer Federation of California

LUCY BLAKE

Executive Director, California League of Conservation Voters

DAN TERRY

President, California Professional Firefighters

Rebuttal to Argument Against Proposition 140

Proposition 140 restores *true* democracy, gives you *real* choices of candidates, protects *your* rights to be represented by someone who knows and cares about *your* wishes. It opens up the political system so *everyone*—not just the entrenched career politicians—can participate.

Proposition 140 will bring new ideas, workable policies and fresh cleansing air to Sacramento. All are needed badly. A stench of greed, and vote-selling hangs over Sacramento because lifetime-in-office incumbents think it's *their* government, not yours.

Californians polled by the state's largest newspaper say "most politicians are for sale," and "taking bribes is a relatively common practice" among lawmakers. Proposition 140 cuts the ties between corrupting special interest money and long-term legislators.

Why don't more people vote? Because incumbents have rigged the system in their favor so much, elections are meaningless. Even the worst of legislators get reelected 98% of the time. Honest, ethical, *truly* representative people who want to run for office don't stand a chance.

Do career legislators *really* earn their guaranteed salaries, extravagant pensions, limousines, air travel and other luxury benefits? No. They use *your* money and *your* government to buy themselves power and guaranteed reelections.

Who really opposes Proposition 140? It isn't ordinary people who have to work for a living. It's incumbent legislators and their camp followers. Beware of movie stars and celebrities in million-dollar TV ads, attacking proposition 140. They're doing the dirty work for career politicians.

VOTE "YES!" ON PROPOSITION 140. ENOUGH, IS ENOUGH!

W. BRUCE LEE, II

Executive Director, California Business League

LEE A. PHELPS

Chairman, Alliance of California Taxpayers

ART PAGDAN, M.D.

National 1st V.P., Filipino-American Political Association

Proposition 140: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by amending and adding sections thereof; therefore, new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. This measure shall be known and may be cited as "The Political Reform Act of 1990."

SEC. 2. Section 1.5 is added to Article IV of the California Constitution, to read:

SEC. 1.5. The people find and declare that the Founding Fathers established a system of representative government based upon free, fair, and competitive elections. The increased concentration of political power in the hands of incumbent representatives has made our electoral system less free, less competitive, and less representative.

The ability of legislators to serve unlimited number of terms, to establish their own retirement system, and to pay for staff and support services at state expense contribute heavily to the extremely high number of incumbents who are reelected. These unfair incumbent advantages discourage qualified candidates from seeking public office and create a class of career politicians, instead of the citizen representatives envisioned by the Founding Fathers. These career politicians become representatives of the bureaucracy, rather than of the people whom they are elected to represent.

To restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office, the people find and declare that the powers of incumbency must be limited. Retirement benefits must be restricted, state-financed incumbent staff and support services limited, and limitations placed upon the number of terms which may be served.

SEC. 3. Section 2 of Article IV of the California Constitution is amended to read:

SEC. 2. (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. *No Senator may serve more than 2 terms.*

The Assembly has a membership of 80 members elected for 2-year terms. *No member of the Assembly may serve more than 3 terms.*

Their terms shall commence on the first Monday in December next following their election.

(b) Election of members of the Assembly shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as members of the Assembly.

(c) A person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding the election.

(d) When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy.

SEC. 4. Section 4.5 is added to Article IV of the California Constitution, to read:

SEC. 4.5. Notwithstanding any other provision of this Constitution or existing law, a person elected to or serving in the Legislature on or after November 1, 1990, shall participate in the Federal Social Security (Retirement, Disability, Health Insurance) Program and the State shall pay only the employer's share of the contribution necessary to such participation. No other pension or retirement benefit shall accrue as a result of service in the Legislature, such service not being intended as a career occupation. This Section shall not be construed to abrogate or diminish any vested pension or retirement benefit which may have accrued under an existing law to a person holding or having held office in the Legislature, but upon adoption of this Act no further entitlement to nor vesting in any existing program shall accrue to any such person, other than Social Security to the extent herein provided.

SEC. 5. Section 7.5 is added to Article IV of the California Constitution, to read:

SEC. 7.5. In the fiscal year immediately following the adoption of this Act, the total aggregate expenditures of the Legislature for the compensation of members and employees of, and the operating expenses and equipment for, the Legislature may not exceed an amount equal to nine hundred fifty thousand dollars (\$950,000) per member for that fiscal year or 80 percent of the amount of money expended for those purposes in the preceding fiscal year, whichever is less. For each fiscal year thereafter, the total aggregate expenditures may not exceed an amount equal to that expended for those purposes in the preceding fiscal year, adjusted and compounded by an amount equal to the percentage increase in the appropriations limit for the state established pursuant to Article XIII B.

SEC. 6. Section 2 of Article V of the California Constitution is amended to read:

SEC. 2. The Governor shall be elected every fourth year at the same time and places as members of the Assembly and hold office from the Monday after January 1 following the election until a successor qualifies. The Governor shall be an elector who has been a citizen of the United States and a resident of this State for 5 years immediately preceding the Governor's election. The Governor may not hold other public office. *No Governor may serve more than 2 terms.*

SEC. 7. Section 11 of Article V of the California Constitution is amended to read:

SEC. 11. The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor. *No Lieutenant Governor, Attorney General, Controller, Secretary of State, or Treasurer may serve in the same office for more than 2 terms.*

SEC. 8. Section 2 of Article IX of the California Constitution is amended to read:

SEC. 2. A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. The Superintendent of Public Instruction shall enter upon the duties of the office on the first Monday after the first day of January next succeeding each gubernatorial election. *A Superintendent of Public Instruction may serve more than 2 terms.*

SEC. 9. Section 17 of Article XIII of the California Constitution is amended to read:

SEC. 17. The Board of Equalization consists of 5 voting members: the Controller and 4 members elected for 4-year terms at gubernatorial elections. The state shall be divided into four Board of Equalization districts with the voters of each district electing one member. *No member may serve more than 2 terms.*

SEC. 10. Section 7 is added to Article XX of the California Constitution, to read:

SEC. 7. The limitations on the number of terms prescribed by Section 2 of Article IV, Sections 2 and 11 of Article V, Section 2 of Article IX, and Section 17 of Article XIII apply only to terms to which persons are elected or appointed on or after November 6, 1990, except that an incumbent Senator whose office is not on the ballot for the general election on that date may serve only one additional term. Those limitations shall not apply to any unexpired term to which a person is elected or appointed if the remainder of the term is less than half of the full term.

SEC. 11. Section 11 (d) is added to Article VII of the California Constitution, to read:

SEC. 11. (a) The Legislators' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any state office for which membership in the Legislators' Retirement System was elective or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that office.

(b) The Judges' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any judicial office subject to the Judges' Retirement System or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the judicial office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that judicial office.

(c) The Legislature may define the terms used in this section.

(d) *If any part of this measure or the application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application.*

CAMPAIGN TO LIMIT CALIFORNIA TERMS

A SPECIAL PROJECT OF



QUESTIONS & ANSWERS ABOUT PROPOSITION 140

Proposition 140, "The Political Reform Act of 1990," which will be on the November ballot, will reform our State Government by

- * limiting the terms of State Senators and statewide elected officers to two terms (8 years) and Assemblymen to three terms (6 years);
- * eliminating any special pensions for legislators (providing Social Security only);
- * reducing the amount the Legislature can spend on its own operations (saving \$60 million or more the first year alone, according to the Legislative Analyst).

As might be expected, many legislators vehemently oppose Prop. 140. Certain special interests which have contributed heavily to current legislators are fearful that they will lose their influence over the \$80+ billion spent by the State each year. The following are questions that have been raised regarding Prop. 140, and our answers:

QUESTION: *Won't term limitation take away the people's right to choose their representatives?*

ANSWER: No, term limitation will restore choice. Currently, the re-election rate of incumbents is nearly 100%, because they have contrived safe districts and given themselves huge sums for staff, newsletters, travel, etc. A challenger has little chance to raise enough money to compete effectively. Rather than vote for an incumbent they don't like, over half the people don't vote at all. Limiting terms will create opportunities for "new faces" to compete on an equal footing. Voters will again have a real **choice**.

QUESTION: *Do the people have a right to impose limits on terms of elected officials?*

ANSWER: The people have **every** right -- they are sovereign. We already impose many conditions on those elected -- age, residence, campaign contributions, etc. Term limitation is merely a condition of employment that will restore citizen control over our government as the Founders intended -- and protect us from the arrogant attitude displayed by some legislative leaders from impregnable districts.

QUESTION: *Won't good people be turned out of office by Prop. 140?*

ANSWER: On the contrary, Prop. 140 will open up offices and let good people move in and up. Some people who are in office too long "burn out." They **enjoy** the power, prestige, perks, pensions and, yes, sometimes payoffs of a career in politics. There are many fine people who want to serve, but they are blocked or frustrated from doing so by the power of the incumbent. Minorities and women are unable to obtain the representation which their numbers justify.

QUESTION: *Don't California's many problems require experienced, "professional" legislators?*

ANSWER: Our "experienced" Legislature has failed to effectively reach budget decisions, improve transportation, provide decent education for our children, produce clean air, eliminate crime from our streets, etc. They have "experience" in passing 1700 new laws per year, on average, most of which spend public money, provide special favors and are rarely read by the legislators. Politicians have "experience in creating illusions and deceptions" (Author-Economist Thomas Sowell). "Professional" politicians lose touch with the real world. We need people with skills in various professions and walks of life, those who build roads, practice medicine, operate businesses -- not career legislators who may know the legislative rules or the old-boy network, but little else.

{over}

QUESTION: *Assembly Speaker Willie Brown claims that "rookies" (as he refers to newly-elected legislators) would be putty in the hands of special interests; that career politicians are independent, less susceptible to special interests. Is that true?*

ANSWER: It is hard to imagine any closer linkage between powerful special interests and the current legislative leadership. All one must do is review the campaign statements (required to be filed with the Secretary of State) of every candidate to see that **public employee unions** and those who receive grants, contracts or subsidies from the State contribute millions of dollars (supplied indirectly by the taxpayers) to "persuade" legislators to keep those tax dollars flowing. Other powerful special interests seek laws and regulations to insulate themselves from competition or to give themselves a monopoly profit. (The liquor industry is a classic example of this kind of special-interest lobbying.) New legislators are **less** likely (not more) to be captives of the powerful special interests. Many career legislators have no business or profession to which to return, so they are more dependent upon special interests and subservient to their demands.

QUESTION: *Won't the power of the legislative staff be increased by term limitation?*

ANSWER: The explosion in staff size and cost has accompanied the development of the career-oriented, lifetime-tenured Legislature. Careerists enjoy the power of large staffs. Careerism breeds reliance on staff -- it's easier. Prop. 140 will cut staff size. Those who run for office under term limitation will be the type of people most likely to manage their staff, not be managed by it.

QUESTION: *Won't those serving limited terms be less devoted to the issues and more concerned with money and politics?*

ANSWER: Think about it -- if potential candidates for office know at the outset that they cannot make a career out of legislative service, those who seek office will be motivated more by **issues** and **service** than by the vision of personal financial gain and political power. There will always be those who will abuse power and position. But term limitation is the one reform that will reduce that to a minimum -- it will automatically cleanse the system of such people.

QUESTION: *But don't elected officials need time to accomplish their plans and policy goals?*

ANSWER: With limited terms, officeholders will have to move more quickly to achieve their goals. As leadership changes with each session of the Legislature, entrenched leadership which now frustrates the goals of many legislators will be a thing of the past. Term limitation will have the beneficial effect of breaking up the kind of log-jam that has made the Assembly Criminal Justice Committee the graveyard of many much needed criminal justice reforms.

QUESTION: *There are two initiatives on the ballot that limit terms. Isn't Prop. 131 better because it would give longer terms than Prop. 140?*

ANSWER: Prop. 131 limits legislators to 12 **consecutive** years. By getting out for a couple of years or switching offices, a politician can stay in office for a lifetime. Also, Prop. 131 calls for **public financing of campaigns** and has a host of other undesirable features. Only Prop. 140 can be considered a true term limitation measure.

QUESTION: *Wouldn't public financing of campaigns, or restrictions on campaign contributions and spending, be preferable reforms?*

ANSWER: Taxpayers should not be asked to fund campaigns of candidates -- especially those whose opinions they detest. Limitations on campaign spending would favor incumbents. Challengers, to have any chance of winning, must raise and spend more than incumbents who, in reality, spend **public** money for the weapons of victory: staff, publicity, newsletters, travel, etc. Among all the reforms that have been discussed, only term limitation drives right at the heart of the problem: breaking up the "ruling class" mentality that accompanies lifetime tenure in office.

CONCLUSION

Not long ago, Assemblyman John Vasconcellos, who has been in the Legislature for 24 years, said of the Legislature, "This is my house --- these are my friends . . ." After years in office, a sense of ownership or proprietorship sets in. We the people "own" our Legislature -- not the other way around. When legislators think they are the owners, it's time to ship them out. TERM LIMITATION IS THE ANSWER.

CAMPAIGN TO LIMIT CALIFORNIA TERMS

A SPECIAL PROJECT OF



STATEMENT OF LEWIS K. UHLER, CO-PROPONENT OF PROPOSITION 140

Beyond obscene fund-raising antics, corruption trials and convictions and all the rest, the California Legislature -- as an institution -- has ignored and thwarted the Constitution, the law and the will of the people.

In 1979, 75% of the voters approved the Gann Limit, which included an enormously important protection for local government against State-mandated costs. Has the Legislature followed the dictates of the Constitution and the people? **No!** It regularly imposes costly functions on local government and ignores its funding responsibility. Butte County is threatened with bankruptcy because of it. What does Willie Brown say in response? "Let them raise their own taxes." Marie Antoinette said it earlier: "Let them eat cake."

When the people approved Proposition 24 -- the Legislative Reform Act -- in 1984, what was the institutional response of the Legislature? **To use taxpayer funds to fight the people in the courts.**

On criminal justice matters -- including the death penalty -- the Legislature has been at odds with the people for longer than most observers can remember.

Is it any wonder, then, that given the chance to reform the Legislature through term limitation, more than 70% of California's voters favor Prop. 140? But we can expect exactly the same response from the Legislature: **fight the people; spend huge sums to defeat Prop. 140.** While the inmates will not easily give up control of the asylum, the time is ripe for the people to once again re-establish control over **their** Legislature.

(c) Ineligibles

For "ineligibles", the State specifies at the time their coverage is provided whether coverage will continue or terminate if an ineligible later becomes eligible for membership in a retirement system.

253.5 Continuation of Coverage— Retirement System Covered on Majority Vote Basis

(a) General

Services in all positions under the retirement system, including positions brought under the system in the future, are compulsorily covered (except for excluded positions). Coverage of the positions continues even though the positions are later removed from coverage under the retirement system, the system is abolished, or the positions are placed under an additional retirement system.

(b) Police Officers and Firefighters

If there were no police officer or firefighter positions in existence at the time the referendum was held, but such positions are later created and placed under the retirement system, employees in such positions are not compulsorily covered. Such coverage must always be provided through the referendum procedures under the provisions of section 218(p) of the act. Likewise positions which are reclassified as police officer or firefighter positions cease to be covered until such time as the State may elect to cover them as provided by section 218(p) of the act.

(c) Newly Created or Reclassified Positions

A newly created or reclassified position under the retirement system is covered as a part of the coverage group if the position would have been a part of the group had the position been in existence at the time the retirement system coverage group was covered.

If the retirement system is abolished, newly created or reclassified positions or positions in a newly created political subdivision cannot be covered as a part of the retirement system coverage group.

253.7 Continuation of Coverage— Retirement System Covered on Desire for Coverage Basis

The rules in section 253.5 above apply except only new members of the system are automatically covered. In addition, a position which is occupied by a member who chooses coverage ceases to be covered if it becomes occupied by a member of the "No" group. Thus, where a member of the retirement system in the "No" group transfers to a position formerly occupied by a member of the "Yes" group, he carries his "No" vote with him. Similarly, if a member of the "Yes" group transfers to a position formerly occupied by a member of the "No" group, his coverage continues.

If the retirement system is later abolished or positions

are removed from coverage under it, the "Yes" group continues to be covered but new employees occupying positions which were formerly under the system would not be covered because they would not be new members of the system.

Termination of Coverage

Social Security Act, Secs. 218(c)(7), 218(c)(8), 218(g) and 218(u)

254. Termination Before April 20, 1983

(a) General

Before the enactment on April 20, 1983 of P.L. 98-21, the Social Security Amendments of 1983, a State's agreement could be terminated either in whole or for one or more absolute coverage groups. The termination could be initiated by either the State or the Secretary of Health and Human Services. Once an agreement was terminated for a coverage group, coverage could not be provided again for that group.

(b) Termination by the State

The State could terminate the agreement in whole or in part by giving at least 2 years advance notice in writing to SSA. The coverage must have been in effect at least 5 years before SSA's receipt of the notice. This meant 5 years actual coverage from the effective date of the first coverage and not 5 years from the date of execution of the modification which provided the coverage. The 2 year period ran from the date the notice was mailed or delivered to SSA and not the date of receipt.

The termination could have applied to any absolute coverage group. For example, coverage for a proprietary function coverage group could have been terminated without terminating coverage for the governmental function coverage group. This could have been done even though the coverage groups were not separately identified when the coverage was provided. A retirement system coverage group was not a coverage group for termination purposes.

The State remains liable for contributions on all wages paid to the covered employees for services performed in periods before the termination was effective, subject to the time limits on assessment described in Handbook sections 478 and 479.

(c) Termination by the Secretary

The Secretary could have terminated an agreement in whole or in part if the State failed to comply or was no longer legally able to comply with the agreement. The State must have been given reasonable notice and opportunity for a hearing. The termination action must have been taken within 2 years of the notice of the intent to terminate unless the State was again in compliance with the terms of the agreement.

Termination by the Secretary was generally limited to cases in which an entity had ceased to exist. See Handbook section 257.

NEWS SUMMARY, PROPOSITION 140

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Schabarum sponsors measure to limit terms, expenses of lawmakers

By TOM CHORNEAU
Daily News Staff Writer

Los Angeles County Supervisor Peter F. Schabarum announced Tuesday he will cosponsor a ballot initiative to limit the terms and expenses of California legislators and state executive office-holders.

The measure, targeted for the November ballot, would limit state senators to eight years in office and state Assembly members to six years. Other state elected officials, including the governor, would be limited to two four-year terms.

State Attorney General John Van de Kamp, who is seeking the Democratic nomination for governor, is sponsoring a rival initiative that would limit state lawmakers to 12 years in office and statewide officials to eight years.

Judy Hammond, spokeswoman for Schabarum, said that the supervisor's interest in limiting terms of state offices has no connection to a bitter redistricting lawsuit the Board of Supervisors is fighting with the Mexican American Legal Defense and Educational Fund and the U.S. Justice Department.

She said Schabarum, a Republican, was responding to a state poll he sponsored that queried voters about limiting the terms of law-

makers or making service in the Legislature a part-time job.

"We found that the part-time Legislature was too complicated an idea and would require a lot of education," said Hammond. "But the idea of limiting the terms got a lot of interest."

In addition to limiting terms, Schabarum's proposal would prohibit legislators elected after Nov. 1, 1990 from receiving any pension or retirement benefits other than social security.

Further, Schabarum would limit the amount of money spent by the Legislature on its operating expenses and equipment to \$950,000 per member annually, or 80 percent of the amount spent the preceding fiscal years, whichever was less.

Schabarum expects the retirement reforms would save taxpayers \$800,000 in the first year, and the limits on expenses would save \$60 million in the first year.

Schabarum would need to collect 600,000 signatures of registered voters by May 15 to qualify the initiative for the ballot.

Other backers of the plan include Lew Uhler, head of the National Tax Limitation Committee, and Mike Ford Jr., chairman of the Marin United Taxpayers Association.

Caps sought on terms of officeholders

*Incumbents criticize
proposed initiatives*

By JAMES W. SWEENEY
Daily News Sacramento Bureau

SACRAMENTO — Three initiatives targeted for the November ballot would put strict limits on how long state officials can stay on the job, although most incumbents have served fewer than 12 years.

Of the seven statewide elected officials, only one — Secretary of State March Fong Eu — has served more than 12 terms. Twenty-four of 30 senators have served less than 12 years, and more than half the 79 state Assembly members have been elected since 1982.

Even so, polls show that most California voters support limiting the number of terms that elected officials can serve — and this is the year that the voters may get their wish.

Three initiatives — two of them drafted by veteran elected officials — have been proposed to cap the number of years politicians can stay in office. All three of the term-limit proposals are aimed at the Nov. 6 election. To qualify, backers must gather 595,000 valid signatures.

The best known proponent is Attorney General John Van de Kamp, who says his term-limit plan is "from a political standpoint, the catchiest" of the three ballot-box proposals underpinning his gubernatorial campaign.

Van de Kamp, who served two terms as Los Angeles district attorney before being elected attorney general in 1982, says he wants to "drain the swamp" by changing campaign fund-raising rules and establishing term limits.

Also backing a term-limit initiative is Los Angeles County Supervisor Peter F. Schabarum, who after 22 years in elected offices says, "I don't think that a career politician does that much to represent his constituents."

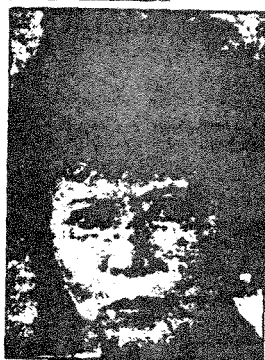
Schabarum announced March 9 that he would not seek re-election to the Board of Supervisors.

The term-limit proposals have generated harsh rejoinders from elected officials in both major parties, who use words like "hypocrisy" to describe the initiatives.

"Term limits are for nerds who don't know when to leave," said Assembly Speaker Willie Brown Jr., D-San Francisco, whose 26 years in office make him the dean of the California Legislature.

Assemblywoman Marian La Follette, who is retiring this year after 10 years in office, is the only legislator who has spoken out in favor of term limits. And even she is critical of Schabarum and Van de Kamp.

"If they believe it, why don't they practice what they preach?" asked La Follette, R-Northridge.



March Fong Eu
Running for 5th term

Presidents were limited to two four-year terms after Franklin D. Roosevelt was elected to the job for a record four terms. Many states and cities also limit the service of their governors and mayors, but none limit legislators.

Just three years ago, Republicans were talking about repealing the 22nd amendment to allow Ronald Reagan to seek a third term as president. And Reagan himself has pushed the idea in speeches since leaving office last year.

But with public sentiment seeming to lean the other way, initiative proposals are now cropping up to limit not only state elected officials but also members of the Los Angeles City Council.

Van de Kamp's plan — which is included in an initiative covering a wide variety of political ethics matters — would limit the governor and other state constitutional officers to two consecutive terms, while restricting legislators to 12 consecutive years in office.

But it would not count any time served before 1990, meaning the earliest it would force anyone from office is 1998.

Schabarum also is proposing a two-term limit for constitutional officers, plus eight years for state senators, six years for Assembly members and an end to pensions for all state elected officials.

His proposal also would start counting experience in 1990, except for the 20 state Senate members whose current terms don't expire until 1992. They would be limited to one more term in office under the Schabarum plan.

Although he argued against the concept of term limits, Democratic Assemblyman Tom Bane of Van Nuys analyzed the plans and concluded that "they won't have much impact" because the turnover is greater than people imagine.

Of the seven state constitutional officers, only Fong Eu has served more than two terms. She was elected in 1974 and is running for a fifth term this year.

Lt. Gov. Leo McCarthy and state schools superintendent Bill Honig each are seeking a third term in 1990, while Controller Gray Davis is running for a second term and Treasurer Tom Hayes is running for the first time after being appointed to replace the late Jesse Unruh in 1989.

Gov. George Deukmejian is retiring after eight years in office and Van de Kamp is giving up the job of attorney general after two terms in order to run for governor.

In the Legislature, only 14 of 38 state senators have been in office for more than 12 years, and nine others have served between eight and 12 years. Sixty-eight of 79 Assembly members have been elected in the past 12 years, 43 of those since 1982.

There currently is one vacancy in the Assembly and two in the Senate.

A third term-limit measure that would have a greater impact on incumbents is also pending, but the backers lack funding and they acknowledge that they are less likely to qualify for the ballot.

That initiative — called "Operation New Broom" — would limit constitutional officers and legislators alike to two terms in office.

It also would count time served before the initiative passes, making exceptions only for those people who are re-elected in November. They could serve one more term but would be barred from running in the future.

"Everyone runs out of ideas after awhile," said Gerald Partain, a former state forestry director and one of the backers of the "Operation New Broom" initiative. "I thought I was doing a good job, but they replaced me as soon as I left and everything is going fine."

This plan not only would limit terms in office, but would require elected officials to quit their present jobs before running for any other office.

Van de Kamp and Schabarum, who have hired people to circulate petitions, say they are confident they will qualify, but Lee Phelps said it is an uphill struggle for his group, Operation New Broom, which is relying on volunteers.

If more than one passes, the measure with the most votes would take effect.

Backers of all three measures said their efforts were bolstered by a California Poll released earlier this month showed 71 percent support for some form of term limit, although there was much less agreement on what form the restriction should take.

"There is going to be a term-limit (initiative) on the November ballot, and I'm certain Californians will overwhelmingly support it," Phelps said.

But the results were downplayed by both Speaker Brown and Mervin Field, who conducted the poll.

"I don't think voters will go for it when they look at losing their member," Brown said. "(Democrat) Sam Farr's (Monterey County) district knows the difference between a rookie and Sam Farr on protecting the coast. That will translate if each member makes it a referendum on themselves."

Field agreed, saying, "People tend to say the Legislature is crooked but my guy is all right. That carries over to doctors are bad except for mine, and all law-

yers are crooks except for mine ... it could go either way."

Though he called the proposals "political opportunism," Bane said a term limit would pass if it qualifies for the ballot.

And Senate Republican leader Ken Maddy of Fresno said the "public sees it as a panacea for the problems in the Capitol."

Bane, who was elected to the Assembly in 1974, said a term limit would prevent legislators from developing expertise in complex subjects, and it would make it easier for special interests and state agencies to resist reforms because they would know when an adversarial legislator would be forced from office.

MORE →

2

LIMITING TERMS OF OFFICE

Three initiatives that would limit the terms of state officeholders are being circulated for the Nov. 6 ballot. They are:

■ THE VAN DE KAMP PLAN: An initiative backed by Attorney General John Van de Kamp, a gubernatorial candidate, would restrict statewide elected officials and members of the Board of Equalization to two consecutive four-year terms. State senators could serve three consecutive four-year terms. State Assembly members could serve six consecutive two-year terms. Time served through 1990 would not count against the limits.

■ THE SCHABARUM PLAN: An initiative backed by Los Angeles County Supervisor Peter F. Schabarum would restrict statewide elected officials and members of the Board of Equalization to no more than two four-year terms in office, limit state senators to two four-year terms and Assembly members to three two-year terms. The term limits apply to all officeholders elected in 1990; senators who are not up for re-election until 1992 would be allowed to serve only one more term in office.

■ OPERATION NEW BROOM: This plan would restrict all state elected officials to a maximum of two terms in any office and requires elected officials to resign their office before seeking another elected position. This measure counts time served before the 1990 election against the term limit, though anyone elected in 1990 whose tenure exceeds the limit would be allowed one more term.

Following is the impact on statewide officials and local legislators under each of the term-limit proposals:

STATEWIDE OFFICIALS

■ LT. GOV. LEO MCCARTHY. Under the Van de Kamp measure: must leave office in 1999. Under the Schabarum measure: must leave office in 1999. Under New Broom: must leave office in 1994.



■ CONTROLLER GRAY DAVIS. Under the Van de Kamp measure: must leave office in 1999. Under the Schabarum measure: must leave office in 1999. Under New Broom: must leave office in 1994.



■ SECRETARY OF STATE MARCE FONG EL. Under the Van de Kamp measure: must leave office in 1999. Under the Schabarum measure: must leave office in 1999. Under New Broom: must leave office in 1994.



■ SCHOOL SUPERINTENDENT BILL MORSE. Under the Van de Kamp measure: must leave office in 1999. Under the Schabarum measure: must leave office in 1999. Under New Broom: must leave office in 1994.



■ TREASURER TOM HAYES. Under the Van de Kamp measure: must leave office in 1999. Under the Schabarum measure: must leave office in 1999. Under New Broom: must leave office in 1999.



STATE SENATE

■ SEN. ED DAVIS, R-Northridge. Under the Van de Kamp measure: must leave office in 2004. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: cannot seek re-election in 1992.



■ SEN. GARY RAST, D-Santa Barbara. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1994.



■ SEN. ALAN ROBBERS, D-Van Nuys. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1994.



■ SEN. DAVID ROBERTS, D-Hollywood. Under the Van de Kamp measure: must leave office in 2004. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: cannot seek re-election in 1992.



■ SEN. NEWTON RUSSELL, R-Glendale. Under the Van de Kamp measure: must leave office in 2004. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1996. Under the



STATE ASSEMBLY

■ ASSEMBLYMAN TOM BANE, D-Van Nuys. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1992.



■ ASSEMBLYMAN TERRY FRIEDMAN, D-Sherman Oaks. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1992.



■ ASSEMBLYMAN RICHARD KATZ, D-Panorama City. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1992.



■ ASSEMBLYMAN GARY MARSHALL, D-Los Angeles. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1992.



■ ASSEMBLYMAN TOM MCCLINTOCK, R-Thousand Oaks. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1992.



■ ASSEMBLYMAN PAT NOLAN, R-Glendale. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1992.



■ ASSEMBLYMAN JACK O'CONNELL, D-Carpenteria. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1992.



■ ASSEMBLYMAN CATHERINE WHERRY, R-Simi Valley. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1992.



■ ASSEMBLYMAN PHILIP WYMAN, R-Bakersfield. Under the Van de Kamp measure: must leave office in 2002. Under the Schabarum measure: must leave office in 1996. Under the New Broom measure: must leave office in 1992.



OTHER OFFICES

Gov. George Deukmejian, Attorney General John Van de Kamp and Board of Equalization member Conway Collins are retiring from office this year. Their successors would have to leave office in 1999 under any of the three scenarios. Assemblywoman Marian La Follette, R-Northridge, is the only local legislator not seeking re-election. Her successor could serve until 2002 under the Van de Kamp initiative, 1996 under Schabarum and 1994 under New Broom.

OTHER OFFICES

Limiting legislators' terms has its price

Staffers, lobbyists may gain clout, experts say

By Jon Matthews
Bee Capitol Bureau

Cynical about their politicians, many Californians may view two November ballot initiatives that would limit the terms of legislators as well-deserved opportunities to throw the rascals out.

But while term limits have drawn broad support in public opinion polls, a leading political scientist and some who think term limits may be a good idea say that capping the number of years a legislator can serve may bring major, harmful side effects.

Some of the potential aftershocks include:

- Forcing out the Legislature's "good guys" along with its "bad guys."
- Making the Legislature's professional staff members and the legions of lobbyists even more powerful and influential than they already are.
- Restricting voters' freedom of choice.
- Reducing overall legislative experience and skills.
- Tempting outgoing lawmakers to use their official powers to barter for lucrative jobs in private industry.

"Certainly the California Legislature is deserving of criticism. Money is playing far too big a role and campaigns are being waged year-round," said Alan Rosenthal, a political scientist at Rutgers University and a leading authority on state legislatures.

"But I do not think term limits are a good idea. I think you want to leave it up to the citizens to choose who they want for a representative, and whether they want to vote somebody else into office," he said.

Others, however, believe strongly that term limits are a good tool — or at least a necessary evil — for bringing new blood and new thinking to a Legislature that is widely viewed as ineffective and isolated.

"I tend to think that on balance the people who come into public office tend to lose their effectiveness over a period of time," said state Attorney General John Van de Kamp, who launched one of the initiatives as part of his unsuccessful bid for the Democratic gubernatorial nomination.

The Van de Kamp measure, which is backed by the public interest group Common Cause, would limit the governor and other state constitutional officers to two consecutive four-year terms while restricting legislators to 12 consecutive years in office. The measure also proposes numerous ethics and campaign fundraising reforms.

Another initiative, backed by Los Angeles County Supervisor Peter Schabarum and taxpayer advocates, would limit constitutional officers to two terms and would hold Assembly members to just six years in office and senators to eight years. The initiative also would limit legislative spending and eliminate pensions for lawmakers.

It is a well-documented fact that legislative incumbents — running in safely gerrymandered districts with huge campaign war chests — rarely lose their bids for re-election. And a California Poll taken early this year showed that more than seven in 10 California voters favored limiting the terms of legislators and other state elected officials.

But a review of legislative resumes showed that there is much more turnover in the Legislature than many voters may realize. While incumbents rarely lose, other factors such as retirements, deaths, and advancement to higher office have contributed to a current Legislature where 61 of 117 members have served for 10 years or less. The figure (which excludes three vacant Assembly seats) goes higher if state senators' prior Assembly service is discounted.

Political scientist Rosenthal said he does not view term limits as a panacea for legislative problems and warned that if lawmakers became less experienced, power could be shifted to the Capitol's huge, unelected staff.

Rosenthal said he knows of no other state that has term limits for its legislature.

Claremont Graduate School political scientist Sherry Bebitch Jeffe agreed that the potential for spiraling staff power "is a very legitimate concern."

She said she believed the term limits proposed in the Schabarum initiative are clearly too short and that the measure is "mean-spirited," but added that she has been wrestling over the pros and cons of longer limits, such as those in the Van de Kamp initiative.

"I'm almost at the point now where I would like to see whether a term limitation would change the dynamics in Sacramento, but I also fear for the unintended consequences," she said.

State Sen. William Leonard, R-Redlands, also has wrestled over the term limit question, particularly after seeing two redistricting reform initiatives crushed in the June 5 primary election. Those measures, he argued, would have created more competitive legislative districts.

"The political scientist in me agrees that there are serious risks to term limits. They could tend to make the bureaucracy, the state's civil service, more powerful," he said.

But Leonard, who said he is undecided on whether to support either or both of the term limit initiatives, said such a constitutional mandate may be the only option left for increasing political competition. The strong public support for term limits "has me laughing, but I am laughing through tears."

Common Cause supports the term limits in the Van de Kamp initiative because they are combined with other ethical safeguards, said the organization's Ruth Holton.

"Some legislators complain about it and say this is going to cause great chaos, but that all suggests they believe they have a guaranteed right to be there until they decide they want to leave," she said.

Willie Brown Denounces Term-Limit Initiatives

By Greg Lucas

Chronicle Sacramento Bureau

Sacramento

In a long and colorful tirade yesterday, Assembly Speaker Willie Brown denounced two measures on the November ballot that limit the terms of elected officials, saying such limits would increase the power of special interests.

The outspoken Brown challenged the author of one term-limit initiative — retiring Los Angeles County Supervisor Pete Schabarum — to a debate anytime, anywhere.

"It's a mean-spirited effort," the San Francisco Democrat said of Schabarum's initiative, Proposition 140. "I think (Schabarum) would like nothing better than to have special interest totally in control of government."

It took just one question on the subject of term limits at a Capitol press conference to send Brown into a 15-minute stream-of-consciousness diatribe on the evils of such limits. That kind of reaction indicates that defeat of the two propositions imposing such limits will be one of his top priorities in the November election.

Defeat of two reapportionment initiatives was Brown's main objective in the June primary. Questions on the topic before the election provoked similarly emotional responses.

More Rookies

Brown argues that limiting the time a lawmaker can serve means more rookies in Sacramento who will be more easily manipulated by special interests.

"Any special interest individual will tell you he absolutely prefers to be in the hallway or in the company of an inexperienced person who is not as competent as he is on the issues," Brown said.

Proposition 140 limits statewide officeholders and state senators to two consecutive four-year terms. Assembly members must leave after three two-year terms. The proposition also reduces the Legislature's budget from nearly \$190 million a year to approximately \$120 million a year.

Another initiative, sponsored by Attorney General John Van de Kamp, would allow Board of Equalization members and state senators to stay in office 12 years while forcing Assembly members and other statewide officials to leave after eight years.

Such limits strip voters of their right to keep a veteran legislator who has represented their interests well over the years, Brown said.

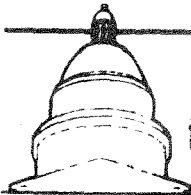
Benefit of Experience

"This is the only time anyone is suggesting experience is a liability," Brown said. "Would you prefer to be administered for your brain tumor by the surgeon who graduated this year or the surgeon who has been practicing for 10 years and never lost a patient? Which is the one you would prefer to do a number on your brain?"

Brown noted that he did not become speaker until 1980 — 16 years after he was first elected to the Assembly.

Prop. 140 has Legislature

reeling about future



Under the Dome

By Roger Cantfield

No, it's not another driveby shooting at a low-income public housing project that has occupants of a building so frightened about their future.

While for now they work in billion-dollar digs, legislators and their aides tremble about an initiative on the November ballot. And well they should.

Lew Uhler of the National Tax Limitation Committee and Los Angeles Supervisor Pete Scharbarum have crafted Proposition 140 to limit politicians' time in office and to make that time costly to them.

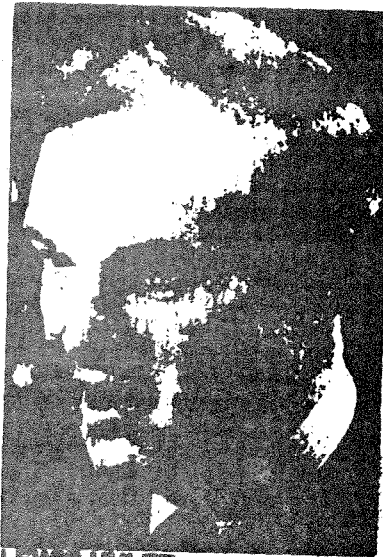
The measure cuts legislators' pensions and slashes the Legislature's staffing and other expenditures by 40 percent. But Uhler is not sympathetic to the fears of the politicians and their aides.

"These cuts are far less disturbing than the spending growth that now requires them," he explains.

Uhler is angry about a "permanent establishment" whose "lifetime tenure" causes it to think it "owns the place." Despite opposition by incumbents of both parties, many Republican staffers believe that a ballot victory for Uhler, and defeat for them in particular, is almost certain.

Forced to choose, Willie Brown and David Roberti will protect Democrats and fire Republican staffers. One Republican aide echoed others when he said, "I'm looking for work. It's gonna be a bloodbath."

Uhler hopes there is one, but worries that some Hollywood star will portray his measure as "club-



LEW UHLER
Not sympathetic

By CARL INGRAM
TIMES STAFF WRITER

SACRAMENTO—Someone finally dared to say the "S-word" out loud on the state Assembly floor.

The S-word, shorthand for the "Schabarum Initiative," had been only whispered around the Capitol as the political equivalent of a nuclear bomb.

But this week, as Assembly Democrats and Republicans again took to blaming each other for the highly publicized failure to pass a new state budget, Assemblyman William Baker (R-Danville) turned to Assembly Speaker Willie Brown (D-San Francisco) and said the unspeakable:

"Do you think you won the press war last week? I don't think you won. I don't think we won. I think Schabarum won."

Please see SCHABARUM, A14

L.A. Times 7-25-90

Fiscal Standoff May Aid Schabarum Initiative

SCHABARUM: Initiative Limits Feared

Continued from A3

Schabarum is pugnacious Los Angeles County Supervisor Pete Schabarum, a Republican and sponsor of a radical ballot initiative that would strike hard at what many elected state office holders hold most dear: incumbency, pensions and their own budgets.

The measure would impose for the first time limits on terms of office—from the governor and to top state officials and legislators. It would also abolish the generous retirement program of legislators and enact stiff cutbacks in the Legislature's own spending.

While many in the Legislature regard the Schabarum proposal, Proposition 140, as a direct attack upon them, it will be one of two such proposals to go before voters on Nov. 6. Atty. Gen. John K. Van de Kamp is sponsoring a similar initiative to limit terms of legislators and state officeholders, Proposition 131.

The Van de Kamp measure whipped up a firestorm of anger in the Legislature earlier as he campaigned unsuccessfully for the Democratic nomination for governor.

State government is approaching the fourth week without a budget because of a political standoff between Assembly Democrats and Republican Gov. George Deukmejian and his Assembly GOP allies. Many legislators, their staffers, lobbyists, political consultants and others have begun voicing concern that the deadlock will play into the hands of Schabarum.

"Whatever the impasse, it helps that initiative because it's just something that will strike against the Legislature," said Senate leader David A. Roberti (D-Los Angeles).

On the Republican side, Sen. Ed

"embarrassing" deadlock has provided "the greatest campaign propaganda that Pete Schabarum could ever imagine."

For his part, Schabarum, who spent five years in the Assembly before he was appointed to the Board of Supervisors by Gov. Ronald Reagan in 1972 and will retire this year, viewed the paralysis as a big reason to vote for his so-called "Political Reform Act of 1990."

"It is certainly another example of . . . a major issue that the Legislature chooses not to deal with," he said Tuesday. "Therefore, who needs them as they are currently constituted? The public needs to get some folks in who are more interested in the public business than their own personal survival."

Did his blame apply to Deukmejian as well, he was asked. "It takes two to tango," Schabarum said.

At the Capitol, Democrats blame Republicans and the governor, and Republicans blame Democrats for a "paralysis of leadership." But opinion surveys, including a Los Angeles Times poll last winter, show that citizens don't make such clear distinctions and hold the Legislature as an institution in very low regard.

Schabarum and Van de Kamp, who made his "Clean Government Initiative" an early theme in his campaign for governor, sought to capitalize on what they saw as citizen disenchantment with their elected state representatives.

There is now no limit on the number of terms a California state legislator may serve; senators are elected to four-year terms and Assembly members to two-year terms. The Schabarum plan would limit members of the Assembly to three terms and senators to two terms starting with the Nov. 6

Critics maintain that the restricted terms constitute a "lifetime ban" on returning to the Assembly or Senate after an incumbent's last term has expired.

One of the critics is Brown, who said he believes the Schabarum measure is aimed at him. "I think Republicans genuinely believe that the [Assembly] leadership on the Democratic side of the aisle can't be dislodged through the normal electoral process. They are trying anything," Brown said.

The Van de Kamp plan would limit Assembly members to six successive terms and senators to three, for a total of 12 years each. After a one-term break in service, a former legislator could run again for the Assembly or Senate.

Under the Schabarum initiative, the governor and state superintendent of public instruction would be restricted to two four-year terms. Other statewide officers, such as lieutenant governor, would be restricted to two terms in the same office, but could seek other office.

Another major provision would abolish the legislative retirement program, except for previously vested members, and require lawmakers to participate only in the federal Social Security retirement, disability and health insurance system.

A third feature would hand the Legislature an estimated 38% cut in the amount it can spend. Broken down by member, this would reduce the Legislature's budget per year from approximately \$1.5 million to \$950,000.

Times staff writer Douglas P. Shult contributed to this story.

7

Term-limit measures on November ballot could be more appealing to voters because of budget mess

By Anne Marie Ternus
Daily Recorder Staff Writer

While the lack of a budget has state workers worrying about their next paycheck and the treasurer worrying about the state's credit rating, legislators have begun worrying about the Schabarum Initiative.

Now known as Proposition 140, the initiative would limit Assembly members to three terms in office and state senators to two terms. The measure would also set a two-term cap on the careers of all statewide elected officials and members of the Board of Equalization, if approved by voters in November.

Given the public's outrage over the fact lawmakers and the governor went 25 days into the new fiscal year before attempting to find a budget compromise, legislators may have something to worry about.

"(Legislators) no longer represent the people, they represent the bureaucracy," contends Mike Ford, president of the Marin United Taxpayers Association and a Proposition 140 sponsor. Ford said the budget stalemate will increase the likelihood of Proposition 140's passage, "and legislators know it, too."

Indeed, during recent Assembly floor sessions, amid the partisan bickering and name-calling, the words "Schabarum Initiative" popped up

ominously as well.

And the initiative, named after Los Angeles sponsor Peter Schabarum, isn't the public's only option for striking back.

Voters will also see Attorney General John Van de Kamp's "Clean Government Initiative" on the November

Initiatives limiting terms of lawmakers could face the same all-out battle that reapportionment did in June.

ballot in the form of Proposition 131. The omnibus measure is aimed at reforming all of state government by imposing new ethics and campaign financing laws, and by limiting the terms of elective office.

Not quite as restrictive as Proposition 140, the Van de Kamp measure would limit all statewide elected officials to eight successive years in office, while state legislators and members of the Board of Equalization would be limited to 12 consecutive years. Van de Kamp's measure would also allow lawmakers to sit out a term

once their 12 years have been completed, then run again for the same office.

But if the recent budget crisis is what drives voters to impose term limits on state legislators, they could be defeating the purpose.

After all, the Senate was able to produce a bipartisan budget while the Assembly could not, and Senate President Pro Tem David Roberti attributed the difference to the fact that most senators have been around a while longer and are no longer as ideologically driven.

"We have a memory that a lot of the younger members of the Assembly don't have," he said. "We know what happens when somebody doesn't get their check. We know the guilt."

While senators may want to fight, said Roberti, D-Hollywood, "we put those fights off, or pick them for the very, very important causes."

Assembly Speaker Willie Brown has already designated the fight against any term limit a very important cause.

Brown, who has referred to term limits as being "for nerds," vows to fight them as he did reapportionment in June.

Considering the fight he and the Democrats waged then, and the fact that many Republicans will join in fighting term limits, Proposition 140 could go down to the wire, said Ford.

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Budget Mess May Better Odds For Limiting Legislators' Terms

By Greg Lucas

Chronicle Sacramento Bureau

Legislators have freely admitted in the past seven weeks that there will be only one winner in the partisan wrangling over the state's new \$55 billion spending plan: the "Schabarum initiative."

The initiative would limit the terms that lawmakers serve and would cut the budget for legislators' salaries and staff expenses from \$190 million each year to roughly \$120 million. Sponsored by former Los Angeles County Supervisor Pete Schabarum, it is Proposition 140 on the November ballot.

"By not getting out of here quickly and cleanly, we probably added another 10 percent to the vote in favor of the thing," said Assemblyman Bill Baker, R-Danville.

The initiative would limit Assembly members to six years in office. Senators and other statewide officials would have to move on after eight years. Polls show that at least 65 percent of Californians approve of the idea of term limits.

And proponents of Proposition 140 think that support will rise because of the record 27 days into the new fiscal year that it took to reach a budget accord.

"In an indirect way, the message people got was, 'Why do we have these people in Sacramento anyway?'" said Charles Gale, a spokesman for the initiative. "For a month we had the courts making the state's fiscal decisions."

Legislators are intensely opposed to the idea of term limits and say the power of lobbyists will increase with more turnover in legislative seats.

"Term limits mean people are told they can't vote for a person no matter how competent they are, no matter how honest and no matter how much expertise they have developed at serving their constituents while in office," said Assembly Speaker Willie Brown.

7-15-89

Van de Kamp Proposes Ballot Plan to Limit Lawmaker Terms, Funds

By JOHN BALZAR,
Times Political Writer

Bringing his campaign for governor to life after laborious weeks of planning, Atty. Gen. John Van de Kamp made a leap for the high ground on government ethics Friday, proposing a ballot initiative to limit terms of state officeholders and the money that flows to them from special interests.

He called state government a "swamp" of mighty special-interest influence. To clean it up, he said, taxpayers will have to pick up a share of the costs of political campaigns for the Legislature, the governorship and other statewide offices.

His gameness in challenging the everyday conduct of government and the willingness to force politicians out of their offices after set terms add up to the most daring move of Van de Kamp's long and measured political career.

It also is a step born of necessity. The two-term Democratic attorney general and former Los Angeles County district attorney is facing in-depth campaign polls that tell him Californians are not looking for status quo leadership in the 1990 race for governor but are hungry. As one adviser put it, "for some time turn over the tables."

This package could do precisely that, putting the two-term Democratic attorney general at odds with legislators and others officeholders in and out of his own party.

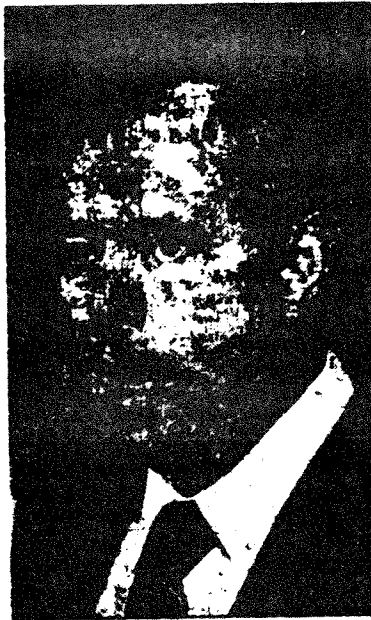
"This is a campaign about change," he said, as if delighted to have picked the fight.

Important Issue

The initiative also gives Van de Kamp—ridiculed by rivals as a "John-come-lately"—something strong to say on an issue destined to play an important part in the 1990 gubernatorial campaign debate: public disquiet about the integrity of government.

Major provisions of the ballot proposition as sketched out by Van de Kamp at press conferences in Burbank, Sacramento and San Francisco would:

- Impose California's first-ever



MIKE MEADOWS / Los Angeles Times

Atty. Gen. John Van de Kamp

- Enact assorted other changes in ethics laws, including a ban on political honorariums and stricter conflict-of-interest restrictions on legislative votes. Future attorney generals would be empowered to appoint special prosecutors in some corruption cases. In addition, public officials, including legislators, would be banned from lobbying state government for a year after leaving office.

"The plain truth is that we have allowed government and politics in California to sink into a quicksand of special-interest money," Van de Kamp said, reading a prepared statement.

Yet, we naively expect public officials to crawl through that swamp on a daily basis and come out clean. I'm here today to tell you that if we want clean government, it's time to drain the swamp."

Van de Kamp indicated that he will confer with public interest leaders to iron out details of the proposal and give lawmakers in Sacramento one last chance to take dramatic action on their own. Then he said he will proceed with a signature-gathering drive to obtain the 595,485 valid voter names needed to win the measure a slot on the November, 1990, general elec-

tion ballot. limits on the ~~governor~~ years a person may hold ~~in the office~~—12 years for the Assembly and Senate and eight years for statewide constitutional officers. The limits would not be retroactive. Instead, the clock would start as of the 1990 elections.

- Ask candidates for the Legislature and statewide office to accept a ceiling on their campaign spending in exchange for public financing of approximately 25% to 40% of their total political budgets. The exact ceiling on each race and the overall costs to taxpayers are still being devised.

MORE →
10.

tion ballot.

Announcement of the ethics initiative came at a time when Van de Kamp's campaign, his status as the Establishment favorite for the Democratic nomination and his im-

age as a "winner" are being called to question by party activists and even some of his own supporters.

Throughout the spring and summer, Van de Kamp has felt pressure to engage more energetically in the 1990 campaign preliminaries. But he resisted, even as rivals seemed to be gaining at his expense.

10.

The attorney general insisted on marshaling and developing an inventory of ideas in private consultation with his team of political advisers and at his own deliberate pace. Campaign manager Richie Ross quoted the lyrics of a 1960s rhythm-and-blues song to explain the virtue of Van de Kamp's slow but sure methods: "It's not what you look like when you're doing what you're doing. It's what you're doing when you're doing what you're doing."

Friday's proposal for a ballot initiative was the first of a series of announcements resulting from the planning sessions. The package of ideas eventually is supposed to provide the framework and rationale for Van de Kamp's gubernatorial bid.

He began the sequence with ethics probably because he has been viewed, both by opponents and supporters, as increasingly vulnerable on the issue. This is not because of his own ethics, which so far as is known are untarnished, but because he is California's chief law enforcement officer at a time when the spotlight on government has come to rest on numerous political scandals. Van de Kamp, to the dismay of political supporters, has been only a bit player in the investigations.

Both of Van de Kamp's leading rivals have already signaled their own strategies that recognize the public's growing doubts about the integrity of government.

Shaping Campaign

Dianne Feinstein, the former mayor of San Francisco, is shaping her Democratic primary campaign to present herself as an outsider capable of restoring people's faith in government.

As for Van de Kamp's initiative, Feinstein spokeswoman Dee Dee Myers dismissed it thus: "Perhaps John Van de Kamp is hoping the public will forget the FBI had to come in and investigate corruption in Sacramento."

Republican candidate for governor Pete Wilson, in his second term as a U.S. senator, frequently draws a parallel between his career 18 years ago and his campaign now. Back then, he left a seat in the Legislature to take over as mayor of San Diego amid a corruption scandal there. Destiny now calls again, he says.

As for Van De Kamp, Wilson spokesman Otto Bos said: "He is going to have a tough time claiming leadership on this since there is nothing, zero, in the record. . . . Where's he been? He's really been a John-come-lately."

"He has shown no reluctance to

accept PAC money, special-interest money. He's taken gifts and trips from special interests. . . . The only constant has been his desire for public funds for campaigns."

Reaction was predictably icy from state legislators, who were not consulted beforehand and who believe the 12-year limit on service is a gratuitous slap at them.

"I just finished 12 years, and I feel better equipped than ever to represent my constituents," said Assemblyman Mike Roos (D-Los Angeles), who wore a face as long as a loaf of French bread as he watched Van de Kamp's Los Angeles press conference.

Van de Kamp said the limit on legislative terms was the most difficult decision he had to make in drafting his proposal. He chose to proceed, he said, because "our system of government has hardened into a gridlock of caution, incumbency protection and the servicing of special interests. . . . This change is worth trying because what we're doing now isn't working."

Times staff writer Clay Evans in Sacramento contributed to this article.

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FRIDAY, SEPTEMBER 14, 1990

Nader Group Joins Drive to Limit Lawmakers' Terms

By Vlade Kershner
Chronicle Sacramento Bureau
Sacramento

The Ralph Nader-Harvey Rosenfield team that overturned the state's auto-insurance system in 1988 is adopting an initiative to limit lawmakers' terms as its project for this November.

The consumer advocates have agreed to join a news conference today for Proposition 131, which limits statewide elected officials to eight consecutive years in office and members of the state Legislature to 12 years.

The endorsement is especially significant in light of last week's California Poll, which indicated that voters are more likely to be swayed by the opinions of Nader, the Washington-based consumer advocate, than by any California political figure.

Rosenfield, a former Nader aide, is the author of Proposition 103, the measure that imposes stiff statewide regulations on all property and casualty insurance rates. His success in persuading Nader to campaign for the measure is widely credited with leading to its narrow passage.

"Our theme is that we want to sweep the state clean," Rosenfield said yesterday. "We'll be out there with yellow brooms."

"We wouldn't have had to do 103, we wouldn't have to do 'Big Green,' if it weren't for the fact that the Legislature is bought and paid for by special interests," he added.

Rosenfield's statewide Voter Revolt organization is available to join the campaign because it does not have any measures on the bal-

lot this year. In addition to campaigning for Proposition 131, Voter Revolt will work this fall to gather enough signatures to qualify a second auto-insurance initiative for 1992.

Proposition 131, sponsored by Attorney General John Van de Kamp, San Jose Mayor Tom McEnery and California Common Cause, also provides for partial public campaign financing for candidates to state office who agree to limit campaign expenditures.

Opponents, including Dan Stanford, former chairman of the Fair Political Practices Commission, argue that the state financing clauses will mean that taxpayers will give at least \$12 million a year to politicians.

Proposition 131 is the liberal-sponsored version of two term-limitation measures this fall.

The second measure, Proposition 140, sponsored by conservative Los Angeles County Supervisor Pete Schabarum, would limit statewide officers and state senators to lifetime service of eight years and Assembly members to six years. It also reduces the Legislature's internal expenditures by 40 percent and restricts legislators' pension benefits.

Rosenfield said he had not taken a position on 140 but is willing to hold discussions about forming an alliance with the Schabarum, despite their political differences.

The campaign against both measures is led by Assembly Speaker Willie Brown, D-San Francisco, who held a \$1,000-per-person fund-raiser last night for the campaign at the Regent Beverly Wilshire Hotel in Beverly Hills.

Brown has said that term limits would produce inexperienced legislators, who could be more easily controlled by corporate lobbyists.

11.

POLITICS & POLICY

Drive to Restrict Tenure in Congress to 12 Years Is Pressed in Capital and One-Third of the States

By DAVID SHRIBMAN

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—More than two centuries ago, when the early U.S. government lumbered along under the creaky Articles of Confederation, lawmakers labored under rigid term restrictions. So when his three years were up, a young legislator named James Madison left his seat in the Continental Congress and moved back to rural Virginia.

The debate that has flickered through-out U.S. politics since the days when the Articles of Confederation sent Mr. Madison packing is flaring once again. The 1988 Republican Party platform favored congressional term limitations, and today efforts to amend the Constitution to restrict tenure in Congress to 12 years are being pressed here in the capital, with parallel drives under way in at least a third of the states.

The farther away from Washington, D.C., you get," says Democratic state Rep. Jim Hanson of Idaho, "the more frustrated you get with Congress."

The movement, which over the years has attracted the support of such figures as Abraham Lincoln, Harry Truman, Dwight Eisenhower and John Kennedy, is being stoked by worries that the contemporary Congress is in danger of becoming a permanent force in Washington, its members virtually immune to challenge. "The public," argues House GOP Whip Newt Gingrich of Georgia, "will not accept a permanent, self-elected Congress."

Many of the foot soldiers in this army are Republicans, who tend to have a natural suspicion of permanent government and who—not so coincidentally, Democrats charge—would be the principal beneficiaries of a system that wouldn't permit entrenched lawmakers to serve more than six two-year terms in the House and two six-year terms in the Senate.

But the sentiment that drives this movement is shared by some Democrats, too. A third of the Senate co-sponsors of the idea are Democrats, and so are more than a quarter of the members of the board of Americans to Limit Congressional Terms.

"People are up to the chokepoint with the view that Congress has corrupted itself," says former Democratic Rep. Lud Ashley, who represented his Ohio district for 13 House terms before being defeated in 1980. "There's no real political accountability in Congress. Every advantage goes to the incumbent. This whole movement bespeaks a frustration that is astounding."

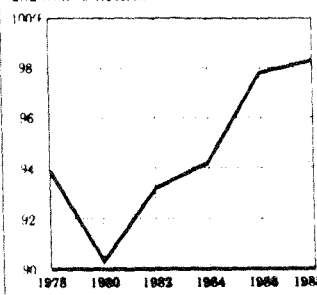
Many of the critics of the effort, including Republican lawmakers, argue that 12-year service limitations would only strengthen lobbyists, who aren't accountable to voters, and increase the power of department and agency officials, who often serve for life. "This would only make the bureaucracy all the more powerful," says Republican Sen. Rudy Boschwitz of Minnesota.

These lawmakers argue, moreover, that the complexity of issues involved in a trillion-dollar enterprise like the federal government demands experience and expertise. "I've only been here three years, but as I see the complexity of what Congress is expected to handle, the presence of a mix of experience levels here is very important," says Democratic Sen. Kent Conrad of North Dakota. "People who are new to this just don't have the background and experience to ask the questions that let us play our oversight role."

The leaders of the term-limitation effort, which is fueled by an organization operating out of the office of Republican po-

Election Returns

Percentage of House members who sought and won re-election



litical consultant Eddie Mahe, want to impose a major change on Congress and to alter the perspectives of lawmakers.

"I believe that if we knew on Day One that we couldn't parlay this into a career, no matter how many carloads of pork we shipped home, there would be a fundamental change in attitudes," says GOP Sen. Gordon Humphrey, who is leaving the Senate after two terms and is contemplating a campaign for state senate in his hometown of Chichester, N.H. "This whole idea of careerism would dissipate—and no single reform would do more good than that."

Congress in its early years had no such problem. Although efforts to impose term limitations popped up from time to time in the early republic, the custom that lawmakers should only serve four years in the House and six in the Senate generally prevailed until the Civil War era. Abraham Lincoln, for example, served a single term in the House and then moved back to Illinois, not to return to Washington until he was elected president.

Since then, however, the average tenure in Congress has increased, in part because of the mounting role seniority has played in the institution's internal politics. In fact, according to Sula Richardson, a Library of Congress analyst, "public and congressional sentiment leaned toward encouraging rather than discouraging longevity in Congress."

Today House members have served an average of nearly a dozen years, with 14 of them serving at least since January 1959. Rep. Jamie Whitten (D., Miss.), the chairman of the House Appropriations Committee, joined the House in November 1941. Sen. Strom Thurmond (R., S.C.) joined the Senate in 1954 and at age 87 is seeking another six-year term this November.

Many skeptics contend limiting lawmakers' terms would undercut the fundamentals of democracy. "How is it democratic to say that someone can't return a lawmaker if they like him and want him there for more than 12 years?" asks Charles Jones, a University of Wisconsin political scientist who has studied the issue. "This whole thing is a guess that some people have about a stalemate or a political situation that they don't like. They don't know this is the cause. This is a solution in search of a problem."

Meanwhile, the debate is taking on a sharper partisan edge. Strategists at the Democratic National Committee are contemplating writing a letter to incumbent senior Republican lawmakers asking them if they endorse this proposal.

"The Republicans can't win in the current set of rules, so they want to change them in the middle of the game," says Michael McCurry, the DNC's spokesman. "There's already a mechanism in place for voters to turn out the politicians they don't want in office. They just vote against them."

Operation New Broom

proposes limit of office terms

By Anne Marie Ternus
Daily Recorder Staff Writer

An initiative limiting all state elective offices to two terms was filed Thursday with the Attorney General's Office.

The proposal is vying with two similar proposals voters may also see on the November 1990 ballot.

Backers of the Citizens' Representation

The Citizens' Representation Act would limit every elected office to two terms, consecutive or not. It would also end pensions and retirement benefits for state elected officials.

Act of 1990 — 20 citizen action groups collectively known as Operation New Broom — say limiting lawmakers to just one re-election campaign will rid the system of corruption.

"It is the continual campaigning process, asking for money to run for office again, that is the great corruptor," said Bill Sullivan, campaign chairman of Operation New Broom. Sullivan spoke at a rally the group held at the Capitol Thursday. "Our proposal is a great leveling process in that you aren't always searching for campaign funds," he said.

Backers say the initiative would eliminate the power of special interest groups that gain clout by financing re-election campaigns.

"If you don't need to be re-elected, and you can't be re-elected, special interest groups have no hold on you," said Lee Phelps, an author of the initiative.

The Citizens' Representation Act would also end pensions and retirement benefits, other than Social Security, for state elected officials.

Because it limits every elective office to two terms, consecutive or not, it is the most sweeping of the three proposed term-limiting initiatives.

An initiative already circulating for signatures, the Citizen Legislators Initiative, would affect only Senators and Assembly members. That proposal limits

The Citizen Legislators Initiative would limit only senators and Assembly members to eight years in office, regardless of the legislative house in which they serve.

the legislators to eight years in office, regardless of which house they serve in.

Operation New Broom members say an eight-year limit is not enough, as it allows members of the Assembly three re-election campaigns and four terms.

"There's an old saying that after three days, both fish and houseguests begin to smell bad," Phelps said. "Our position is that the same thing is true of legislators after two terms."

Attorney General John Van de Kamp included a term-limitation clause in his Clean Government Initiative filed Oct. 10. That initiative would limit all state office-holders to two consecutive terms, except for Assembly members and Senators, who would be limited to six and three consecutive terms respectively. After reaching the limit for their office, officials would be required to sit out one term before being eligible to run again.

Operation New Broom members find Van de Kamp's initiative lacking as well.

"All it means is that they can serve their terms, take a vacation, keep their war chests and name recognition intact, and come back here and serve again," Phelps said. "In other words, it's a lifetime career with an occasional break of a year or two to go to Tahiti or serve as a consultant for the Legislature. We think it's fatally flawed. It doesn't address the problem."

The problem, Operation New Broom members say, is career lawmakers who have forgotten what their constituents'

needs are. And they point to the proliferation of citizen initiatives as proof that the lawmakers aren't doing their jobs. The citizens themselves, they say, would do the job.

"We have many, many talented people in California who would come here and serve for a short time as a citizen legislator, leave and go back and live with

The AG's Clean Government Initiative would limit all state office-holders to two consecutive terms, except for legislators, who would be limited to three or six terms.

the laws that they make," Sullivan said.

Sullivan and the rest of Operation New Broom said if they succeed with this initiative, they will have the momentum to take their cause to the national level.

"We think if we can begin a tidal wave here in California, it will sweep the nation," said Phelps.

The Citizens' Representation Act, once approved for circulation, will need at least 595,485 signatures to qualify for the November 1990 ballot.

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SF Chronicle 2/28/90

A Sunset for Elected Officials

An overwhelming majority of California voters support the notion of limiting the terms of state elected officials, according to a new poll.

Currently, four proposed ballot measures are being circulated that would impose a two-term limit on state officeholders.

In a survey conducted February 2 through February 10, the California Poll found that 71 percent of the state's voters favor the idea of limiting the number of terms that elected state officials can serve. Just 26 percent were inclined to retain the current system of allowing public officials to run for as many terms as they choose. The remainder had no opinion.

There was not a great deal of difference in the way Republicans and Democrats felt about the issue, according to Mervin Field, who conducted the survey.

SAC, Bee 9/12/90, p. A-3

Lawmakers slip in public esteem

Term-limiting initiatives may benefit

By Herbert A. Sample
Bee Capitol Bureau

Californians' appraisal of their Legislature and the job it does is getting worse, according to a new California Poll.

The findings of the survey could be more bad news for lawmakers who are working to defeat two initiatives on the November ballot that seek to limit the number of terms they and state elected officials may serve.

The poll found that 21 percent believe the Legislature has done a poor or very poor job, 47 percent said it has done a fair job and 22 percent believe it has done an excellent or good job. Seven percent had no opinion.

That compares to 1988, when 11 percent felt the Legislature had done poorly, 50 percent believed it had done a fair job, and 32 percent said it had done well.

Poll director Mervin Field said the survey's findings are "no surprise" and indicate an increasing frustration with state government.

"There's a growing fear and apprehension that problems are overwhelming the governmental process," he said. "Problems become more and more intractable. The num-

ber of problems increase. There's not enough money to deal with all of them. So there's this loss of confidence in government doing what it is supposed to do."

Field also said the dour attitudes are fueling the significant support among voters for a pair of term-limit initiatives.

Proposition 131, sponsored by Attorney General John Van de Kamp, would limit Assembly members to six two-year terms, senators to three four-year terms and state constitutional officers to two four-year terms. It also would impose various ethics reforms and provide for partial public financing of campaigns.

Proposition 140, sponsored by Los Angeles County Supervisor Pete Schabarum, would hold Assembly members to three two-year terms and senators and constitutional officers to two four-year terms. It also would curb legislative retirement benefits and place a cap on legislative spending.

A California Poll last week showed that 69 percent of voters agreed with arguments forwarded by proponents of the measures that legislators remain in office too long and indicated strong support for both propositions.

The California Poll

State Legislature's job appraisal

The survey was conducted Aug. 17-27 by phone among a statewide cross section of 1,235 adults. It has an estimated sampling error of plus or minus 4.1 percentage points.

	1990	1988	1983
Excellent/good	22%	32%	23%
Fair	47%	50%	41%
Poor/very poor	24%	11%	26%
No opinion	7%	7%	8%

The latest survey asked 428 registered voters their opinions of Assembly Speaker Willie Brown, D-San Francisco, and Senate President Pro Tem David Roberti, D-Los Angeles.

It found Brown is much better known, even though both have held their posts since late 1980. But the speaker is less well thought of. Seventy-three percent of those polled had heard of him. Of that number, however, only 34 percent had a favorable view of him while 39 percent had an unfavorable view.

Thirty-two percent knew of Roberti. Eighteen percent thought well of him and 11 percent did not.

Those surveyed also said the Legislature and Gov. Deukmejian handled the state budget crisis poorly.

The results of the poll are based on telephone interviews with 1,235 California adults over a 10-day period ending Aug. 27. The margin of error is plus or minus 4.1 percentage points. The error margin for the Brown-Roberti findings is 4.8 percentage points.

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Sacramento Bee 9/17/80

Oklahomans limit lawmakers' terms

Bee News Services

Oklahoma politicians may have felt the first ripples of a national wave of voter frustration Tuesday, when their state became the first to limit the terms of state legislators since the U.S. Constitution was ratified.

The ballot proposition, which received overwhelming support in Tuesday's primary, limits state lawmakers to a total of 12 years in the Legislature. Current members would be allowed to serve an additional 12 years after the constitutional amendment goes into effect.

With 98 percent of the precincts reporting in the ballot question, there were 440,338 "yes" votes to limit leg-

Oklahoma primary		
With 98% of precincts reporting		
Limit terms?	Total	%
Yes	440,338	67
No	214,262	33

islative service, and 214,262 "no" votes, a ratio of 67 percent to 33 percent.

Oklahoma's initiative is seen as a test case for similar propositions on the November ballots in California and Colorado. The Colorado amendment also would limit congressional terms, which could leave it open to a constitutional challenge.

There are two initiatives to limit

legislative terms in California, Propositions 131 and 140. A California Poll earlier this month showed both favored by huge majorities.

Proposition 131 would hold Assembly members to six two-year terms and senators to three four-year terms. It also would impose various ethics reforms, provide for partial public financing of campaigns and limit statewide officials such as the governor to two four-year terms.

It was sponsored by Attorney General John Van de Kamp in his unsuccessful campaign for the Democratic gubernatorial nomination.

Proposition 140, sponsored by Los Angeles County Supervisor Peter

See LIMIT, back page, A14

Limit

Continued from page A1

Schabarum, a conservative Republican, would limit Assembly members to three two-year terms and senators to two four-year terms. It also would curb retirement benefits for former legislators, limit legislative spending and restrict statewide officials to two four-year terms.

Proponents of the ballot measures across the country say voters are becoming increasingly fed up with career politicians they believe put professional interests before the needs of their constituents.

By placing caps on a lawmaker's tenure, they hope to bring back the "citizen legislator" — the grocers and bankers, schoolteachers and farmers — who once ran for office out of civic duty. To evoke this nostalgic past, the sponsors of the Colorado initiative delivered their petitions in a covered wagon.

"Professional politicians lose touch with the real world," said Lewis Uhlir, leader of the National Tax Limitation Committee and co-sponsor of one of the California ballot measures.

"We need people with skills in various professions and walks of life, not career legislators who may know the legislative rules or the old boy network, but little else."

Opponents of the measures charge that the ballot initiatives restrict a voter's right to choose.

"We have to put this in a category of something less than a democracy," Oklahoma State Sen. Ray Giles said. "It restricts the rights of the voters."

Oklahoma seemed an unlikely place for a political revolt that some experts predict will blossom into a nationwide movement.

Over the past 20 years, one in every four incumbents in the Oklahoma legislature has failed to be re-elected.

In addition, legislative sessions are short and most legislators are business officials or farmers, Giles said.

But a depressed economy and controversial tax increases by legislators paved the way for a well-funded campaign that gathered wide support.

As a result, the initiative drew little organized opposition from politicians who feared a voter backlash could hurt their chances in Tuesday's statewide elections.

The self-effacing opposition in Oklahoma stands in stark contrast to the opulent show of defiance by California politicians, who face an uphill battle to defeat the propositions.

Last week, Assembly Speaker Willie Brown threw a lavish \$1,000-a-plate, black-tie banquet as part of a \$5 million fund-raising effort to defeat the measures.

Brown has argued that term limitations are "anti-democratic."

"If you are pleased with your representatives, you ought to keep voting for them," he has said. "This is the only time that anyone is suggesting that experience is a liability."

In other primary voting Tuesday, outspoken Boston University President John Silber shocked the Massachusetts political establishment by winning the Democratic nomination for governor over former state Attorney General Francis Bellotti.

Former federal prosecutor William Weld won the GOP nomination.

The Massachusetts primary was waged against the backdrop of a failing state economy and a governor, Michael Dukakis, who had tumbled from near president to political ne'er-do-well. Dukakis did not run for re-election.

The Bee Capitol Bureau contributed to this report.

LA Daily News

3/11/90

Schabarum surprises many, doesn't file for re-election

Associated Press

Pete Schabarum, a combative conservative who has served 18 years on the powerful county Board of Supervisors, declined to file for re-election by the 5 p.m. deadline Friday.

"The deadline has passed for him to file," county Registrar-Recorder Charles Weissburd said after the deadline, explaining the veteran supervisor cannot run for re-election this fall.

The deadline for other candidates, however, is 5 p.m. Wednesday, opening the door for an electoral free for all. As of Friday, only Jim Mihalka, a Los Angeles city paramedic from Glendora, had filed to run for the office.

Schabarum, 61, had indicated last year he was inclined to leave politics for a more financially rewarding career, but he gave no in-

dication of his plans in recent weeks and the move came as a surprise to many.

"I can't believe it," said 4th District Supervisor Deane Dana. "He's really fixed them all good," he added, referring to potential candidates who must decide soon whether to enter the wide-open contest.

"I was surprised and shocked," 3rd District Supervisor Ed Edelman said in a statement.

The five-member board has been battling the Justice Department and local Hispanic groups in federal court over allegations that the supervisors' district boundaries discriminate against Hispanics voters.

Schabarum's 1st District was among those considered most vulnerable to revision because of the high Hispanic population in the San Gabriel Valley he has represented since 1972.

The supervisor's chief deputy

Tom Hibbard, spent part of the afternoon in the county election registrar's office in the city of Commerce, where local candidates must file their intent to run for election.

A half-dozen reporters also gathered in the clerk's office, but Hibbard refused to answer questions about Schabarum's intentions.

Schabarum was out of the office Friday and could not be reached by telephone for comment.

A clerk at his office said Schabarum spokeswoman Judy Hammond and other deputies were gone for the day, although she added Schabarum had scheduled a news conference for 10 a.m. Monday.

The feisty Schabarum, a political ally of California Gov. George Deukmejian, was appointed to his position 18 years ago by then-Gov. Ronald Reagan. He was subsequently elected to four four-year terms.



Peter F. Schabarum
18 years as supervisor

Schabarum defends late decision

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Peter F. Schabarum
Says priorities changed

Supervisor cites stress, frustration in decision not to seek re-election

By JOHN ROFE
Daily News Staff Writer

Breaking three days of public silence Monday, Los Angeles County Supervisor Peter F. Schabarum blamed the growing stress and frustration of his job as the key factors in his last minute decision not to seek re-election.

Schabarum defended himself against criticism that he should have announced his decision sooner to give other politicians a chance to prepare campaigns for the office.

"The simple fact is that it was not a simple decision, and one

that I had a lot of frustration and anxiety about ultimately making," Schabarum told reporters at the county Board of Administration, adding that he did not make up his mind until the upcoming deadline.

"Simply put, my priorities have changed since 1987," he said. Schabarum said he had to consider other areas, rather than just going with the frustration and frustration of the Board of Supervisors.

The decision by Schabarum to resign from the board of supervisors was a surprise to many.

By SCHABARUM 11

SCHABARUM / From Page 4

Wednesday to file for the seat.

Asked whether he thought his 11th-hour decision made it tougher for Democrats to mount campaigns, Schabarum replied with one word: "Shucks."

Hispanic leaders, who have a federal court suit pending to force the supervisors to redraw district boundaries to consolidate the ethnic group's voting strength, said Monday they would appear at the board's regular meeting today to demand that it settle the suit, which is in the final phases of a trial.

Hispanic leaders are hoping that a Hispanic seat on the board can be established by redrawing Schabarum's San Gabriel Valley-based district.

In a memo to Supervisor Kenneth Hahn, County Counsel

DeWitt W. Clinton said the county could seek a suspension of the trial if a major Hispanic candidate files before Wednesday's deadline, arguing that the plaintiffs might achieve their objectives in the election before the case is resolved.

Among those who have expressed interest in running for the Board of Supervisors are Los Angeles City Council members Richard Alatorre and Gloria Molina and Rep. Esteban Torres. D Pico Rivera. But both Molina and Alatorre live out of the district (under current boundaries), and Torres has already filed for re-election to his 34th Congressional District seat.

An aide to Torres said Monday that the congressman was seeking to determine whether he could send his campaign in order to run for the Board of Supervisors.

Meanwhile, a top deputy

Schabarum said Flores took a nomination from the board for the seat Monday. Also taking out nomination papers Monday were Gary V. Miller of West Covina, Joe Chavez of Hacienda Heights, W. Charles Moore of Pomona, Robert Bartlett of Monterey, and Jim Lloyd, a former Democratic Congressman from Los Angeles who is now a lobbyist and has changed his party affiliation to Republican.

During his press conference, Schabarum said there is "a potential" of a "highly competitive" support if they were to announce for the seat before Wednesday's filing deadline. He said he was "not sure" if he would run, but he was "open" to the possibility. He said he was "not sure" if he would run, but he was "open" to the possibility. He said he was "not sure" if he would run, but he was "open" to the possibility.

THE DAILY NEWS OF LOS ANGELES

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*SCHABARUM*DEFENDS LATE DECISION

Supervisor cites stress, frustration in decision not to seek re-election

Breaking three days of public silence Monday, Los Angeles County Supervisor Peter F.*Schabarum*blamed the growing stress and frustration of his job as the key factors in his last-minute decision not to seek re-election.

*Schabarum*defended himself against criticism that he should have announced his decision sooner to give other politicians a chance to prepare campaigns for the office.

"The simple fact is that it was not a simple decision, and one that I had a lot of frustration and anxiety about ultimately making,"*Schabarum*told reporters at the county Hall of Administration, adding that he did not make up his mind until the 5 p.m. filing deadline Friday.

"Simply put, my priorities have changed in recent years," said *Schabarum.*"I prefer to enjoy other activities rather than put up with the

frustration and stress associated with the Board of Supervisors."

The decision by*Schabarum,*a Republican, not to seek re-election gives other candidates until Wednesday to file for the seat.

Asked whether he thought his 11th-hour decision made it tougher for Democrats to mount campaigns,*Schabarum*replied with one word: "Shucks."

Hispanic leaders, who have a federal court suit pending to force the supervisors to redraw district boundaries to consolidate the ethnic group's voting strength, said Monday they would appear at the board's regular meeting today to demand that it settle the suit, which is in the final phases of a trial.

Hispanic leaders are hoping that a Hispanic seat on the board can be established by redrawing*Schabarum's*San Gabriel Valley-based district.

In a memo to Supervisor Kenneth Hahn, County Counsel DeWitt W. Clinton said the county could seek a suspension of the trial if a major Hispanic candidate files before Wednesday's deadline, arguing that the plaintiffs might achieve their objectives in the election before the case is resolved.

He also said that a settlement to the suit may require a special election that would cost the county additional millions.

Among those who have expressed interest in running for the Board of Supervisors are Los Angeles City Council members Richard Alatorre and Gloria Molina and Rep. Esteban Torres, D-Pico Rivera. But both Molina and Alatorre live out of the district (under current boundaries), and Torres has already filed for re-election to his 34th Congressional District seat.

An aide to Torres said Monday that the congressman was seeking to determine whether he could rescind his earlier filing in order to run for the Board of Supervisors.

Meanwhile, a top deputy to*Schabarum,*Sarah Flores, took out nominating papers to run for the seat Monday. Also taking out nominating papers Monday were Gary V. Miller of West Covina, Joe Chavez of Hacienda Heights, W. Charles Moore of Pomona, Robert Bartlett of Monrovia, and Jim Lloyd, a former Democratic Congressman from Covina who is now a lobbyist and has changed his party affiliation to Republican.

The filing deadline is 5 p.m. Wednesday.

During his press conference,*Schabarum*said "three or four" potential candidates had sought his support if they were to announce for the seat before Wednesday's filing deadline, but*Schabarum*said he has not yet decided to make an endorsement. Of Flores, a fellow Republican and his aide for 18 years and a county employee since 1956,*Schabarum*said, "She's a prospect."

CAPTION: PHOTO: Peter F.*Schabarum*
Says priorities changed

KEYWORDS: LOS ANGELES SUPERVISORS; PETER*SCHABARUM*PETE; CANDIDATE; REACTION

18a.

LAT, 7/4/90 B-1

Ruling May Let Schabarum Stay on Board Indefinitely

■ **Redistricting:** Supervisor says he'll remain until appeals process is over and an election is held. No one knows how long that could be.

By RICHARD SIMON
and JAMES RAINEY
TIMES STAFF WRITERS

Supervisor Pete Schabarum, who planned to retire in December, says he will stay on the board as long as it takes a federal appeals court to review a lower court ruling that Los Angeles County's political map discriminates against Latinos.

Schabarum said through a spokesman last week that he plans to stay on the county Board of Supervisors "until the

appeals process is completed and an election is held."

How long that may be is anybody's guess.

Whether he likes it or not, the man who said his job is not "as much fun as other things," now finds that his term could be extended up to a year, maybe longer—without a single ballot being cast.

The open-ended stay on the board comes to Schabarum, 61, courtesy of the U.S. 9th Circuit Court of Appeals, which last month indefinitely postponed the 1st District election pending a review of new district boundaries approved by U.S. District Judge David V. Kenyon. In June, Kenyon ruled that the current lines discriminated against Latinos and approved a new map that changed political representation for many of the county's 8.5 million residents.

The appeals court ruling has left the
Please see REMAP, B3

REMAP: Election Campaigns in Limbo

Continued from B1
county's political landscape in disarray, upsetting the election plans of current and prospective candidates for Schabarum's seat and giving Schabarum another chance to exasperate colleagues who want him to step down.

Under the appeals court ruling, Schabarum, whose term expires at noon Dec. 3, will continue to serve until his successor is appointed or elected.

Sarah Flores, whose campaign to succeed Schabarum has been left in limbo by the case, made a last ditch plea Friday to the U.S. 9th Circuit Court of Appeals to allow the November runoff between her and Superior Court Judge Gregory O'Brien to proceed. Kenyon had canceled the runoff and ordered a new primary in a redrawn 1st District, but the appeals court called off both elections.

In court papers, Flores complained that the uncertainty surrounding the election has hurt her campaign to become the first Latino elected to the board in 115 years. Since the runoff was canceled, she has raised "virtually nothing," she said, adding that her campaign "can die on the vine if we lose momentum."

Flores' attorney, Thomas Bourke, argued that preliminary census figures made public last week raise questions about the reliability of county population estimates used for drawing new district boundaries. County estimates are higher than the preliminary census figures, and the differences show that any redistricting should be delayed until final census figures are available next year, Bourke said.

Election officials said the Nov. 6 runoff can still be held if the court acts by Sept. 12. A runoff can be held within 42 days of the court's ruling. County officials said a new primary could be held in March, but plaintiffs' attorneys say it could be held in December or January.

Richard Fajardo, an attorney with the Mexican American Legal Defense and Educational Fund, a plaintiff, said it would be wrong to delay redistricting until final census figures are available.

"The important thing is to give the Hispanic community that has been wronged for so long an opportunity to have an election as soon as possible," he said.

As of now, however, the U.S. 9th Circuit Court of Appeals is not scheduled to take up the case until October. But an expected appeal to the U.S. Supreme Court could



Los Angeles Times

Supervisor Pete Schabarum

leave the supervisors' districts unsettled, and Schabarum in office indefinitely.

Schabarum, who has bought a retirement home near Palm Springs, moved closer to closing the door on the possibility that he could run in a new 1st District. "As of today, he has no intention of running," Schabarum spokeswoman Judy Hammond said.

The 18-year incumbent, however, was less clear when contacted later. "There is no election before us," he said. "It's too early." He declined to elaborate.

Earlier this year, Schabarum privately discussed resigning, but only if he could have a say in who replaced him.

"Both of these guys would love to see me go," Schabarum said recently, gesturing to his Republican colleagues, Deane Dana and Mike Antonovich, whom Schabarum has derisively referred to as "alleged conservatives." "But it's not in the cards right now," Schabarum said.

Although he has said he will serve until a successor is elected, Schabarum could leave office anytime. In that case, Gov. George Deukmejian or his successor could appoint a new supervisor until an election is held.

But those close to Schabarum said they doubt he will resign because the supervisor does not appear able to choose his successor.

Schabarum considered resigning as early as February, his aides said, but only if he could persuade the governor to replace him with his hand-picked successor. O'Brien

But state law prohibits judges from accepting political appointment.

Antonovich and Dana said they believe Deukmejian would appoint Flores if Schabarum stepped down.

The governor's office will not comment on private discussions concerning political appointments, said Deukmejian spokesman Robert J. Gore.

But a source familiar with the governor's office said, even if O'Brien had been eligible for appointment, such a deal would have been highly unlikely.

"It would be out of character if the governor agreed to some kind of deal," the source said. "And Schabarum and the governor have never been particularly close."

The appeals court action leaves several candidates in political limbo.

Los Angeles City Councilman Richard Alatorre asked his lawyers whether he could begin to raise money to run for the Board of Supervisors, but was advised that he cannot form a fund-raising committee until the district lines are final, said Robin Kramer, an aide to the councilman.

Under campaign finance laws "you can't raise funds for a seat that doesn't exist," Kramer said. "The seat is still out there in the nether world."

So uncertain is the county's political picture that Flores has begun campaigning in both the current and the redrawn 1st districts, which only have half of their territory in common.

Flores and O'Brien said they are struggling to maintain interest in their campaigns.

The election delay has been a financial burden as well.

Flores, who mortgaged her Glendora home to help finance her campaign, owes about \$60,000 for her legal battle. She and O'Brien are on unpaid leave from their jobs.

"We're going to hold on as long as we possibly can," said Flores, who has been on an unpaid leave of absence from her county job since March. "I'm committed, even if I have to take in laundry."

Without his \$91,314 yearly salary as a Superior Court judge, O'Brien said his family's finances are "really getting stretched out thin." His wife Carolyn recently went back to work in the personnel department of a supermarket chain, and the O'Briens had intended to use her salary to help pay for the schooling of their daughter, Kelly, at USC.

"Now that money is just providing a subsistence income for the family," O'Brien said.

19a.

SAC. DAILY
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6/27/90

Term limits are no cure for poor representation

Vacaville Reporter

Editor's note: There again is a call for limits on the tenure of members of Congress. In the House of Representatives, the call is for 12 years and you are out.

An average election will see 98 percent of incumbents running for the House of Representatives re-elected.

Are voters so easily duped? Or are incumbents so well entrenched they can never lose?

Certainly, the latter is true.

Has the system become so rigid and unalterable that such a drastic measure as a term limit must be established?

Though the "people's House" is in danger of becoming the "incumbents' House," the culprit that must be defeated is not the experienced, hard-working, accountable incumbent, but the institutions that keep lazy, conniving politicians in office.

Voters see a rascal, and oust him or her, when the playing field is level.

Political action committees, perks and gerrymandered districts, however, tilt the game in favor of incumbents.

Incumbents of both parties have conspired to draw district lines that safeguard most of them from challenge. They have growing staffs, district offices, and mail and phone budgets. And they have converted interest-group political action commit-

tees, the so-called PACs, into fund-raising machines in the re-election process.

Political watchdog David Broder recently explained the great threat of a simple term limit: "To rotate the membership of the House completely every 12 years while retaining permanent committee staff would have only one consequence: Power would shift very rapidly into the hands of that unelected congressional bureaucracy.

"But to retire the staff as rapidly as the membership rotates would have an equally clear and undesirable effect: Congress would quickly be drained of its capacity to monitor and influence the career bureaucrats in the executive departments and agencies. No longer would anyone on Capitol Hill know where the bodies were buried — or even what questions to ask."

Democracy is better served by attacking the follies of political finances than to target terms of representatives.

Limiting terms not the answer

Two initiatives have qualified for the November ballot that would impose limits on the number of years a person could serve in the Assembly or state Senate.

On the surface, that's a seductive idea and may prove irresistible to voters anxious to take a few punitive whacks at the Legislature, which right now ranks about on a par with creepy, crawly things in public esteem.

The last time pollster Mervin Field took a sounding on the issue, he found 71 percent in favor of term limits and only 26 percent inclined to retain the present system of allowing legislators to run as often as they please.

"This is just another manifestation of lack of confidence in the political process," says Field, "stemming from distrust, skepticism and displeasure with elected officials."

One of the November initiatives is sponsored by Attorney General John Van de Kamp as part of an overall ethics-in-government package. It would limit state senators to three consecutive four-year terms and members of the Assembly to six consecutive two-year terms.

The other measure is sponsored by Los Angeles County Supervisor Peter Schabarum and would limit state senators to two consecutive four-year terms and members of the Assembly to three consecutive two-year terms.

Neither measure is retroactive, meaning that time already served by incumbents would not be counted against them.

"Competition and renewal are good things. . . . We need to open up the process," says Van de Kamp. "Turn those seats over on a regular basis. Bring new people into politics. Make sure that real people have the opportunity to run for office, not just professional politicians."

Schabarum predicts the idea will "strike a nerve as raw as that exposed by Proposition 13," the 1978 initiative that slashed property taxes. "The electoral system has become less free, less competitive and less representative due to increased concentration of political power in the hands of incumbent lawmakers," he says.

But both initiatives are built on a false presumption — that there is no turnover in the Legislature and that something needs to be done to run "careerist politicians" out of office in

In fact, and this may come as a surprise to some people, the turnover rate in the Legislature is quite high. Sixty-one of the 117 members of the Assembly and Senate (there are three vacancies in the Assembly) have served for 10 years or less.

There are some legislators who never should have been allowed through the doors of the Capitol for even one term; there are others who should be allowed to stay for as long as they want. But term limits make no distinctions. Able senior legislators would be forced out along with the lazy, the incompetent and the corrupt.

Goodness knows enough legislators have given voters reason to want to clean house. Their arrogance, petty money grubbing and inattention to public policy are well documented.

Gerrymandered districts have insulated most of them from serious competition. And some have come up through legislative staff ranks and have known no other life outside politics. Their primary interest, once in office, is getting re-elected.

"... Limiting terms gets right to the core of the system," says Alan Rosenthal, director of the Eagleton Institute at Rutgers University. "People want to stay in. They like it."

There is no evidence, however, that term limits would produce any more accountability, any less partisanship or any better legislators. And with shortened terms and loss of institutional memory and perspective, legislative staff would become more powerful than ever.

"You'd have these unelected young people, on the make themselves, really running the government," says Field.

Robert Monagan, a former Republican speaker of the Assembly, concedes that a persuasive argument can be made in favor of term limits and says he has entertained the thought himself in the past. "But I've changed my mind," he says in his new book, "The Disappearance of Representative Government."

If representative government is to mean anything at all, says Monagan, "we should have the right to elect whomever we please, and thus for as long as we please." Competitive districts would do more to improve legislative performance than restricting how long a person can serve.

Sacramento Bee
6-30-90

No, for Pete's Sake

Don't do it, Pete.

We know you hear the political winds calling your name. "Schabarum," they seem to gently whisper. "Supervisor. Your game to lose." The pull may seem as if it's too much to resist.

It's not. Resist.

For years, Los Angeles County Supervisor Pete Schabarum has delighted in thumbing his nose at those he didn't agree with. But in March he declared that he would not run for reelection because the job was not "as much fun" as it used to be.

That decision came amid a long and bitter lawsuit over the county's anti-Latino bias. The all-white board fought the charge, with Schabarum leading the way; his 1st District, with a growing number of Latinos in the San Gabriel Valley, was the target.

With Schabarum out of the race, others jumped in. Then a federal judge agreed that the political lines did indeed discriminate against Latinos. U.S. District Judge David V. Kenyon redrew the 1st District lines to make it a majority Latino district. Thursday an appeals court temporarily stayed that decision.

Veteran Latino politicians lined up for the job. But Kenyon also allowed that the June primary victors—and incumbent Schabarum—would still be eligible to run for office in the new district.

So now, Schabarum is muttering that running again is a "serious option." This, from a four-term office holder who is pushing a ballot measure to limit local officials to two terms!

We know the supervisor wouldn't want to seem self-serving and inconsistent. Let those winds blow by, Pete.

Throwing out rascals good idea but public must identify them

SACRAMENTO — "Throw the rascals out" threatens to become the rallying cry of the Nov. 6 election, and the rascals don't like it.

Two ballot initiatives to limit the number of terms in office state elected officials can serve are designed to tap into a wellspring of public resentment about governmental gridlock and corruption.

Advocates contend term limits would revitalize the governmental process with regular infusions of new blood. Politicians, the theory goes, would be less likely to sell their souls to assure political longevity if political longevity were legally prohibited.

Assembly Speaker Willie Brown advanced the notion recently that the term-limitation measures would play into the hands of greedy special interests who could run roughshod over a state government with "nothing but rookies participating in the process."

"The sleazy, cold-blooded special interests are going to see an opportunity, and they're going to be supporting (term limits) because, believe me, they will dominate," Brown claimed.

There are strong arguments to be made against mandatory term limits.

But the notion that the Legislature somehow could be more beholden to special interests than it already is is not one of them. Sen. Joseph Montoya did not go to jail because he was too wet behind the ears.

Indeed, Brown is expected to donate all of the proceeds of his annual big-ticket fund-raising dinner next month in Beverly Hills — a special-interest command performance if ever there was one — to the campaign to sink Propositions 131 and 140.



John Marelius

On Politics

be limited to two successive terms in the same office, and legislators would be limited to 12 years — three terms in the Senate, six in the Assembly.

Far more restrictive — punitive, really — is Proposition 140 put forth by retiring Los Angeles County Supervisor Pete Schabarum.

The Schabarum initiative would limit statewide officials and members of the Senate to eight years, two four-year terms. Members of the Assembly would be limited to six years, three two-year terms. At the end of their tenure, officials would be prohibited from ever seeking that office again.

Not only that, Proposition 140 would abolish legislative pensions and slash legislative staffs.

Van de Kamp's initiative, although the product of an ill-conceived ploy to advance his campaign for governor, is not out of character. The attorney general has long fought for public campaign financing and has never accepted honorariums.

Even the term limits, thrown in to capitalize on growing populist resentment, is more or less in keeping with Van de Kamp's own career pattern of serving two terms in one office and then moving on.

For Schabarum to embrace such a cause is quite another matter and legitimately can be seen as the mean-spirited parting shot of an embittered politician.

tors seem determined to enact significant reforms in some area — auto insurance seems a good bet — before the current session ends Friday.

As for the campaign, Democrats are determined to throw every available dollar at defeating 131 and 140.

But Republicans, still steaming over the blatantly misleading campaign that torpedoed the Proposition 118 and 119 reapportionment initiatives in June, are threatening to override their own self-preservation instincts and stay on the sidelines.

"They can have their districts, but they can't run in them," said one Republican.

Many predict a repeat performance of the reapportionment war, where Democrats trotted out such noted political scientists as Jack Lemmon and James Garner to explain that gerrymandering is good for the environment.

Such a fatuous notion prevailed overwhelmingly because, despite the importance of reapportionment, most people don't understand it and don't care.

When it comes to term limits, such tactics won't work. Most people will understand an opportunity to stick it to the politicians, no matter what Jack Lemmon says.

There's an alternative that probably hasn't occurred to anybody. The term limit opponents could meet the issue head-on and explain to voters why it really isn't as good an idea as it sounds.

Here's the problem: There are rascals in the Legislature, but they aren't all rascals.

If you arbitrarily limit terms in office, you sweep out the talent along with the deadwood.

MORE

23

Winning the ultimate political war of survival will not be easy.

The term-limit issue packs the deadly one-two punch of appealing both to do-gooder reformers and anti-government know-nothings.

The sponsors of the two initiatives embody that seeming contradiction.

Proposition 131 is part of the legacy of Attorney General John Van de Kamp's unsuccessful campaign for the Democratic nomination for governor.

It would create a system of partial public financing of state campaigns and prohibit elected officials from accepting honorariums for speaking engagements.

Statewide elected officials would

seats on the Los Angeles County Board of Supervisors — long known as "the five little kings" — change hands at a rate of slightly more than one per generation.

With things loosening up a bit in the Soviet Politburo, the L.A. Board of Supervisors may well be the world's most hidebound government entity, and Schabarum has zealously fought off all efforts at reform throughout his 20-year career.

Only when a court-ordered redistricting to promote election of a Hispanic became an inevitability this year did Schabarum decide to pack it in with his customary gracelessness.

Term-limit-phobia in the Capitol is having some interesting effects — at least one of them positive. Legisla-

There are hard-working, public-spirited people in the Legislature, although by no means enough of them. There are also some power-hungry egomaniacs, political hacks, dullards who would be incapable of functioning in the real world, and a few out-and-out thieves.

There's no reason to believe that term limits would produce anything other than less experienced hacks, dullards, thieves and public-spirited citizens in roughly the same proportion.

The term-limit controversy tends to overlook one essential ingredient: Voters have the power now if they choose to exercise it.

In short, the voters have a duty to throw the rascals out. They also have a duty to take the time to figure out who the rascals are.

23a.

IF THERE was one word on the lips of every legislator leaving town last week, it was probably "Schabarum." That's code for Proposition 140, a controversial "legislative reform" initiative authored by Los Angeles County Supervisor Pete Schabarum. The measure, if approved by voters in November, would limit legislators to three terms (six years) in the state Assembly and two terms (eight years) in the state Senate; would limit statewide elected officials to two terms (eight years); would reduce the Legislature's budget by about 40 percent, and would eliminate the pension plan (except for funds already vested) for state legislators.

Without question, Sacramento politics are in need of reform. This summer's budget deadlock (what ever its complex of causes) was an embarrassment. The campaign finance arms race, which leaves state elected officials indebted to special interests who want something from them, continues unabated. And during the reappointment process next year, the public again will be pained witness as elected officials carve up the state to secure objectives, safe seats, partisan advantages, opportunities to "move up" — that have little to do with the public interest.

But, to put it bluntly, Schabarum is irresponsible reform run wild. It represents the elevation of demagoguery over problem-solving, and of individual punishment over institutional revitalization.

The pension issue reveals the punitive nature of this initiative most vividly. Pension plans serve the interests of both the employee and the public. By mandating long-term saving, they reduce the probability that retired citizens will need government assistance. So why single out state legislators for pensionless compensation?

If the purpose is to discourage legislators from staying in elective office too long, it would seem unnecessary. The stiff term limitation imposed by Proposition 140 would suffice. If the purpose is to reform what many view as an overly generous legislative pension system, then the solution is to reduce the benefits. But what purpose, other than punishment, does total elimination serve? Certainly it will not produce higher quality candidates or encourage middle- and lower-income individuals to spend their best earning years in public service.

THE ARBITRARY reduction of the Legislature's budget is equally indefensible. Like all probability that budget — like the budget of any sizable bureaucracy — could be modestly reduced without too much dislocation. But a 40 percent reduction — which could be achieved only through sweeping staff and salary cuts — would produce serious and unfortunate consequences.

Legislators would continue to need information, which they get primarily from two sources: staff, who work for them, and lob-

by resources are reduced, only one source of information and analysis will fill the gap. And if current political realities are any guide, enhancing the power of lobbying groups hardly will constitute productive political reform.

Moreover, what guarantee is there that the 40 percent the Legislature decides to cut will be the right 40 percent? Many legislators might decide to cut legislative/policy staff, while keeping more politically skilled staff. Alternatively, they might place their political staff on campaign payrolls, thus increasing their need for campaign dollars raised from special interests.

Arbitrary, sweeping legislative budget-cutting is not responsible problem solving.

TERM LIMITATIONS may be another story. While no other state imposes them on legislators, they frequently have been imposed on governors (26 states) and other executive branch offices, including the U.S. presidency, and a case can be made for the practice. Incumbents have gained and maintain enormous advantages in re-election efforts; legislative incumbents win well over 95 percent of the time. Legislative turnover is minimal and when too many serve too long, a sense of insulation and a loss of institutional energy and initiative can result. This may be especially true in the California Senate, where the average member has served over 10 years — often after graduating from years of service in the Assembly.

But, again, there is responsible and irresponsible reform. A responsible term-limit proposal would strike a reasonable compromise between the needs for experience, leadership and expertise on the one hand, and for turnover, new blood and electoral competition on the other.

Schabarum offers no such compromise. Under his proposal, the Legislature — especially the Assembly, would be populated, at most exclusively, by those either learning or leaving.

The latter group also could bring a new and unhealthy brand of conflict of interest to legislative proceedings. Some legislators, forced to move on and naturally concerned about future career opportunities, will wonder if those now asking something from them would be willing and able to give something back in the near future. While the public, then, may not be well-served by a Legislature that is too secure, neither is it well-served by a Legislature that is too insecure.

It is always difficult to get angry people, voters included, to act temperately. It is easier to play on the anger and to offer artificial solutions that give vent to it. But the expression of anger doesn't, generally speaking, make for good public policy, especially when you lock the anger and its product into the state constitution. Proposition 140 is as irresponsible as it is vindictive.

Special to The Bee

Sacramento Bee
9-7-90

The Legislature needs reform, but not Prop. 140

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THE ORANGE COUNTY Register

A FREEDOM NEWSPAPER

"There is no worse heresy
than that the office sanctifies
the holder of it."

Lord Acton



R. David Threshie, publisher
K.E. Grubbs Jr., editorial
and commentary director
N. Christian Anderson, editor
and vice president

R.C. Hoiles, co-publisher 1935-1970
C.H. Hoiles, co-publisher 1935-1979
Harry Hoiles, co-publisher 1975-1979

EDITORIALS

Sweep them out

Gorge Washington would applaud. Last week, a coalition of citizen groups launched "Operation New Broom," a campaign to limit the number of terms that politicians could serve in any one state office in California — and also end their pensions.

Of all the plans floating around under the billing "campaign reform," this is the only one that lives up to the name. True, Attorney General John Van de Kamp has also called for limiting politicians' terms, but his proposal is studded with a host of less-worthy provisions, such as new rules about campaign spending that amount to restrictions on political speech.

The proposed "New Broom" ballot initiative, in contrast, has only one focus. It would limit to two terms all state elective offices, from legislators to the governor to members of the Board of Equalization. It's an idea whose time came 200 years ago — and remains just as sensible today. The nation's first president had it right when he declined to serve a third term. Most historians argue he did the country a powerful service by rejecting the monarchical model in favor of the concept of the citizen politician.

How times have changed. A species of monarchy, or at least an entrenched aristocracy, is what we've ended up with in the California Legislature and in Congress. Where once a few vials of new blood were

regularly introduced into our legislative chambers, that freshening stream has slowed to a trickle in the era of computer-crafted gerrymandering and the forklifting of pork for the purpose of buying votes.

You've heard the arguments against limiting terms. There's the concern about losing continuity and institutional memory. Who will be around to point out that some dumb new idea was tried and found wanting years ago? Point taken — but the gains outweigh that drawback. If politicians won't be able to rack up years of experience, neither will they be able to forge decades-long ties with special interests hungry for tax-funded goodies.

Then there's the claim that tethering politicians to a two-term limit deprives voters of the freedom to send somebody back to Sacramento, or Washington, as often as they want. While that's true, this would hardly be the only limit our system imposes on the power of the majority. Voters can't elect people younger than a certain age, for instance, or non-citizens.

The fact is, one of the great modern perils to our liberties may well be the legislator-for-life, the lawmaker who knows only the corridors of government power, who has forgotten, if he ever knew, what it takes to survive in the private sector. First in Sacramento, and next in Washington, it's time to show perpetual politicians the door.

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THE ORANGE COUNTY

Register

A FREEDOM NEWSPAPER

"The man who fights for
his ideals is the man who is
alive."

Miguel de Cervantes



R. David Threshie, publisher
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and commentary director
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EDITORIALS

Throw the rascals out

What we've seen in Sacramento the last few days is the annual tribute to the irresponsibility, incompetence, and in some cases venality of our state legislators. Because the solons wait until the last few days of a legislative session to pass so much legislation, mistakes are made and deals are cut that sophisticated observers, let alone ordinary people, won't know about for months.

In the 1960s, led by former Assembly Speaker Jesse Unruh, the state legislature "professionalized" itself. Being a state legislator became a full-time job, salaries were raised, more assistants were hired, and the length of legislative sessions was extended. The idea was to increase the competence and quality of the legislative process so that legislation would be the product of a rational deliberative process.

What's the result? The process is more polarized and politicized than ever. At the end of each session we still see a crazy flurry of hasty legislating in which mistakes are made and secret agreements with special interests are incorporated into legislation. And important legislation is still postponed until the next session — sometimes deliberately, so legislators can keep collecting contributions from special interests from year to year to year.

You might think that with all the resources available, the state Legislature would go about its business systematically, considering legislative proposals, holding hearings to get various viewpoints, considering amendments, and producing a reasonably steady flow of new laws and decisions throughout its session. Silly you. Every year, the Legislature dithers for most of the session, then indulges in an orgy of fast-

"Every year, the Legislature dithers for most of the session, then indulges in an orgy of fast-forward legislating."

forward legislating.

The only question is whether this is due to incompetence or venality. One can seldom go wrong underestimating the competence of a politician. But it must also be acknowledged that when complex bills are being considered quickly, so hurriedly that most legislators have trouble grasping the thrust of what is being considered, let alone read all the fine print, it is relatively easy to slip in minor clauses that amount to payoffs for special interests. That's something these people get good at doing.

What's the solution? Some would argue for a part-time Legislature on the sound presumption that a Legislature with less time will do less mischief. But that wouldn't get at the root problem: the superstition that we need those clowns in Sacramento to organize our lives for us.

Actually, few normal people share that superstition. Most of us go about our lives without any help from legislators, only hoping against hope that they won't tax us too heavily or mess up our jobs or businesses too much. State legislation is dominated by special interests seeking special favors or large sums of taxpayers' money.

Perhaps the best way to end favoritism, then, is term limitation. A legislator who will be out soon is of less value to special interests than a full-time professional in a lifetime sinecure.

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IS Competition at Ballot Box Worth Loss of Choice and Experience in Office?

5-27-90

■ **Politics:** Limiting the terms of officeholders and public financing offer challengers a better chance at dislodging entrenched incumbents.

By Xandra Kayden

It is safe to predict that not many voters will bother to cast ballots June 5. The consequences are worrisome, because it means winners stay in office too long, blocking the rise of new leadership and, perhaps, society's forward movement. In Congress, for example, 99% of House incumbents were reelected in 1988; in the Senate, 85% held onto their seats. At the state and local levels, the reign of incumbents is similar.

One explanation is that the lower you go on the political ladder—the less visible the office—the less voters know about challengers. At best, choice is little more than recognizing a familiar name.

There are two solutions to non-competitive elections now widely discussed in public-policy circles: public financing of campaigns and limiting the terms of officeholders. It is not always clear, however, that these are solutions to the same problem.

Public-financing advocates contend that unless challengers gain access to more funds, they have virtually no chance at the polls. With the additional money, the candidates can improve their name recognition among voters, thereby enhancing their competitiveness.

For that reason, incumbents tend to be wary of public financing, especially when it comes to their own campaigns. They are less reluctant to tap taxpayer funds for campaigns in which others politicians are running. Congress, for example, made public financing the law in presidential

Xandra Kayden was executive director of the Commission to Draft a Code of Ethics for the Los Angeles City Government and is the author of "Surviving Power" (Free Press).

campaigns. As for itself, it still prefers private campaign money.

When some form of public financing is instituted, incumbents want to keep spending limits low to prevent their opponents from spending enough to gain name recognition.

The other solution to incumbency stalemate is limiting the terms of officeholders. There is a federal proposal for senators and representatives. Come November, Californians can choose to limit the terms of Assembly members and senators. And Angelenos can sign a petition to be able to restrict the tenure of council members and certain elected officials. (The Los Angeles version is especially anti-incumbent, because it would *retroactively* impose a two-term limit.) Most of the proposals would impose a 12-year limit.

The President, of course, is restricted to two terms. Governors in 29 states also can't spend the rest of their lives running their states. But thus far, few cities and no state have set term limits for legislators.

It is quite possible that if the term-limit clock began ticking for the "permanent Congress," as it is known in Washington these days, the consequences would ripple throughout the electoral system. The idea that public-service careers should start in the school committee or city council, advance to the state legislature, to Congress and then on to the presidency loses its appeal when you consider the average tenure of the respective officeholders. Typically, a Los Angeles council member has been in office 13 years, a supervisor 18. In Sacramento, an Assembly member, on average, has been in office for 15 years, a state senator for 12. The average tenure of the California delegation to the House of Representatives is 11 years. At that rate, it would take 69 years just to run for the U.S. Senate.

Reapportionment, old age, changing ambitions, the need to make more money and new opportunities, however, help to maintain the turnover in most of these governmental bodies. Sixty percent of the California delegation to Washington has been elected since 1980; likewise, 54% of

the state senators and 65% of the Assembly members.

The average tenure of local officeholders is greater. Two of the five supervisors were elected in 1980; the remaining three were already supervisors. Six City Council members were elected in the 1980s; five have been on the council for 20 years or more.

Talent, hard work and *experience* are needed to become a good politician. It usually takes years to develop the skills to rise to positions of leadership in legislatures. For example, the name of Sen. Sam Nunn (D-Ga.) is invariably

preceded by "well-respected," in large part because his judgment on military matters is the result of long study and service on the Armed Services Committee. He was first elected to the Senate in 1972. Advocates of term limits would eliminate the Nunn.

On the other hand, if terms were restricted, the time it takes to advance might shrink proportionately. Seniority could be achieved in six or eight years, not 10 or 20. Since political issues tend to recycle themselves several times during a 10-year period, maybe the country would be better served by new leaders the second or third time around.

A more serious drawback to term limits is that they are anti-democratic because they eliminate choice. We rely on voters to hold elected officeholders accountable. If a politician's constituents wish to reelect him or her year after year, they should be able to do so.

The problem, in the end, is that we really don't have a choice because we don't know enough about the candidates. Sometimes, we pick candidates because we know something about them, are able to discern their positions by virtue of their party affiliation or because the issues have been widely discussed during the campaign. Most of the time, however, the choice is between a vaguely familiar name and one that is totally unknown.

Public financing, where available, has proved to be effective in increasing political competitiveness. Limiting the terms of officeholders on the top rungs of the political ladder assures open seats, but when were these offices ever non-competitive? The two-term limit for President and one- or two-term limit for governors more likely reduces bossism and corruption than promote competitiveness. What medicine you take depends on what disease you want to cure. □

Twice Should Be the Charm for Politicians

■ **Government:** Limiting the terms of officeholders would guarantee a steady stream of new leaders and new ideas. It may even clean up Los Angeles.

By BARBARA BLINDERMAN
and DAVID DIAZ

An initiative limiting Los Angeles officeholders to two consecutive terms recognizes what politicians refuse to acknowledge: The ethics problem we face in city government is the necessary consequence of entrenched incumbency. The "Elective Offices—Limitation of Terms," as the currently circulating measure is called, would help clean up City Hall and return political power to where it belongs: with the people.

The initiative, which would amend the City Charter, would allow an elected official to run for the same office after four had years elapsed. He or she, of course, would not be prohibited from seeking a different or higher post.

Conventional wisdom claims that a politician's first term is essentially on-the-job training and thus it would be foolhardy to limit the now seasoned official to one more term. Utter nonsense. Many of today's officeholders have long resumes of political activity, including duty as staffers or party functionaries. If a winning candidate doesn't know the dynamics of the office he or she seeks, it is a sad testimony on the quality of the city's political traditions and leadership.

Other critics of restricting officeholders' terms worry that imposing such limits would tacitly acknowledge the failure of our government and politics. But the worsening problems of smog, traffic jams, homelessness, toxic wastes, gangs, drugs and overdevelopment hardly constitute evidence that our political system is purring along. Instead of leadership, we have political gridlock.

The seemingly constant need for crisis decision-making is, in part, the result of officials who, having grown accustomed to office and campaign perks, are more interested in self-preservation than in the city's

future. Sure, our elected leaders pay abundant lip service to protecting the integrity of the community. Then they vote to destroy one neighborhood after another, lest they alienate their contributors.

It is also said this our initiative would disturb the balance of power between elected officials and city bureaucrats. That's true. Our elected officials have held power long enough to enable them to manipulate the bureaucracy to serve their self-interest and to evade the consequences of unpopular decisions.

Finally, limiting terms by statute would end the practice of using commission appointments as "rewards" for campaign contributions. The chief problem with commissions is that their members serve too long. To be effective, commissioners must be motivated by a strong sense of public service and voluntarism, seldom the traits of merely political appointees.

Possibly fearful of losing their jobs, many incumbents reportedly are considering a legal challenge to initiatives that would limit their time in office. In one of the first such cases, a Superior Court judge recently ruled that Cerritos voters can limit officeholders' terms. So far, no California court has declared term limits illegal.

There are limits on the terms of officeholders in at least 11 California charter cities. Similar restrictions are contained in initiatives circulating in Inglewood and San Jose. The basic concept behind all these measures is that the purpose of local government, which is to serve the public, is best fulfilled by a steady infusion of new leaders with new ideas.

A two-term limit would usher in an era of responsive city government. If there is any remaining doubt that such a solution is needed, one has only to recall the performance of the City Council when recently handed the opportunity to pass an ethics reform package: It feverishly worked to kill any idea that would make it more accountable to the people.

Barbara Blinderman is a land-use and public-interest attorney. David Diaz is an environmental planner. They are co-sponsors of the "Elective Offices—Limitation of Terms" initiative.

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FROM WASHINGTON

Voters in chains

Does the public think that incumbent members of Congress get re-elected too easily and serve too long? Supporters of a constitutional amendment that would restrict U.S. representatives and senators to twelve years of service point to a recent Gallup Poll indicating that seventy percent of Americans favor limits on congressional tenure. Without irony, they also point with alarm to the fact that ninety-eight percent of incumbents got re-elected in 1988, often by large margins, including many whose tenures exceeded twelve years. The poll results they acclaim as vox populi. The actual election results they de-

nide as illustrating the problem.

The late Ferdinand Marcos once canceled a presidential election in the Philippines on the grounds that an opinion poll indicated that the people didn't want one. At the time I thought that was the ultimate exercise in opinion-poll democracy. But this is even better: citing a poll both as superior to past elections and as a reason to foreclose future ones.

Americans to Limit Congressional Terms is one of those pre-fab interest groups that can now be put together overnight with stationery, fancy p.r. folder, "National Advisory Board" of distinguished has-beens, and so on. It is run out of a Republican political consultant's office and, despite the support of a few token Democrats, is basically an expression of Republican frustration at the Democratic dominance of Congress over the past few decades. Many people seem to believe that whereas the apparent Republican lock on the White House is a mandate, the apparent Democratic lock on Congress is a scandal.

It wasn't long ago that Republicans wanted to repeal the 22nd Amendment (1951), which limits presidents to two terms. That one was also a Republican creation—an expression of frustration at the long tenure of FDR. In the glorious afternoon of the Reagan years, they came to regret it. Their argument for repeal is

the same one made by opponents of congressional term limits: in a democracy, people should be able to vote for whom-ever they want. Anybody who thinks extended incumbency is undesirable can vote against the incumbent.

The term-limit debate quickly veers away from such first principles into the realm of poli sci. Advocates say that foreclosing Congress as a permanent career would prevent members from "going Washington" and assure a regular influx of fresh citizen-legislators. Opponents say it would only increase the power of the permanent Washington bureaucracy. Republican Representative Henry Hyde of Illinois, an opponent, worries that people would run for office only near the beginning and the end of their adult lives, denying the nation the fruitful energies of those creative middle years.

Republican Senator Gordon Humphrey of New Hampshire, who is sponsoring the proposed amendment, says it would obviate Congress's repeated pay-raise agonies. I'm not sure I see how, unless those new citizen-legislators are all rich, or unless they all go through the revolving door into Washington lobbying after their twelve-year training program.

Opponents also challenge the notion that there is a "permanent" Congress. Despite the high re-election rate of incumbents who choose to run, over half the Congress is new since 1980. Despite PACs and other modern election horrors, the turnover rate is about the same as it always was. *Roll Call*, the Capitol Hill newspaper, notes tartly that half the former members of Congress on the mast-head of Americans to Limit Congressional Terms are "former" because they lost their own bids for re-election.

Humphrey is following his own advice and retiring at the end of his current, second, term. The same cannot be said of other supporters of the term limit, such as Senator Nancy Kassebaum of Kansas and House Minority Whip Newt Gingrich, both of whose twelve years are coming up. Humphrey's amendment would make an exception for past and current terms of current members of Congress. "I hope this provision will make the proposal more palatable," he says dryly.

The mere fact that a term limit would make the American political system less directly democratic is not a definitive argument against it. Our constitutional system is full of hedges against democracy, starting with the notion of representative democracy itself: the will of the people expressing itself through elected representatives, not directly. The cumbersome process for amending the Constitution is another example. As long as the system itself rests on the consent of the governed, which ours does, there is nothing

wrong with different aspects of it keeping democracy on a longer or shorter string.

Furthermore, even the basic idea of democracy doesn't require that people be allowed to send whomever they want to Congress. Members make decisions affecting the whole country, not just their own districts. If the citizens of D.C. really want to re-elect Marion Barry as mayor, you might conclude that that's their business. If the citizens of South Carolina want to send Strom Thurmond back to the Senate for the 150th time, you might be tempted to say, "Wait a minute. That's my business, too."

But the term limitation idea is anti-democratic in more than the mechanistic sense. At bottom, it is based on the idea that elections are inherently corrupting and the less our leaders have to do with them—raising money, campaigning, bending to interest groups—the better. Taking the notion at its most high-minded, rather than as a mere partisan ploy, it is reminiscent of the fad that swept through Washington in the late 1970s, at the time of Jimmy Carter's malaise, for a six-year non-renewable presidential term. The concept was the same: we need politicians who don't care about politics.

What we need instead, I think, is citizens who care more about politics. It does seem odd, at first blush, that a majority of Americans report themselves to pollsters as disgusted with Congress and eager to rejigger the Constitution to prevent incumbents from being re-elected, then that same majority goes to the polls and votes overwhelmingly to re-elect the incumbents. The explanation is that the voters are lazy hypocrites. And on this, as on more important subjects such as federal spending (where everyone is against it in the abstract and for it in the particular), the politicians are pandering to voters' hypocrisy and thereby encourage it.

Despite all the advantages of incumbency, it is still just as easy to vote against the incumbent as to vote for him, if you care enough. The Nicaraguans just gave us an inspiring demonstration. If, as Humphrey insists, congressional seats have become "personal fiefdoms," it is not because voters have been denied the freedom to vote the bastards out, but because they can't be bothered. Americans don't need and don't deserve another crutch for democracy, another way to express disdain for politics. They've got the Congress they voted for, and if they don't like it, they know what they can do about it.

MICHAEL KINSLEY

continued on page 41

REVIEW & COMMENT

Vincent Carroll, Editor of Editorial Pages 892-5477

Twelve is enough

Reasons for limiting congressional terms as simple as 1-2-3

By Hendrik Hertzberg

Before you automatically reject the proposal now making the rounds for a 12-year limit for members of Congress as a dreadful idea — an anti-democratic, anti-political, mechanistic "reform" that is probably nothing but a Republican plot — consider three numbers.

First number: 37.1.

Yes, it's a voter turnout figure, the op-ed writer's best friend. This particular figure represents the percentage of Americans over 18 who bestirred themselves to go to the polls in 1986, the last time the citizenry was invited to vote for members of Congress without the added glitz of a presidential contest.

Compared with the turnout in any other arguably democratic country — France, Nicaragua, Norway, Hungary, El Salvador, Israel, Turkey, Italy, Lithuania, you name it — this is pathetic.

It was the lowest since 1926, not counting 1944, when World War II made voting inconvenient for large numbers of people. And the public's true interest in House elections is even lower. Only the most perverse elitists argue that this state of affairs is anything but a symptom of extreme political ill health.

Second number: 98.3.

This is the percentage of members of the House of Representatives who won their "re-election" in 1988, up from 98% flat in 1966. According to a recent study by David C. Huckabee of the Congressional Research Service of the Library of Congress, this number has remained in the 90s since 1974, and it is currently the highest it has ever been since the middle of President Washington's first term.

Third number: 36.

This is how many years a single party, the Democrats, has controlled the lower house of the national legislature of the United States. By contrast, the British House of Commons has changed hands four times since 1954, the French Chamber of Deputies three times, the West German Bundestag five times, the Canadian House of Commons five times, and the Indian Lok Sabha three times.

In the light of the second and third numbers, the wonder is that the first number is so high.

In the overwhelming majority of congressional districts, voting is increasingly an irrational act. Why bother, when 85% of the incumbents are getting more than 60% of the vote in their districts, when 63 members are returned with Bresnahan majorities exceeding 94%?

Voting may still make sense as a civic sacrament but not as a form of political action,

including Abraham Lincoln, Harry Truman, Dwight D. Eisenhower and John F. Kennedy.

The current campaign for a constitutional amendment that would limit service

(with an exemption for the present crew of incumbents, of course) is led by Sens. Gordon Humphrey, R-N.H., and Dennis DeConcini, D-Ariz. Their 10 co-sponsors span the Senate's ideological spectrum,

from Jake Garn on the right to Nancy Kassebaum in the center to Tom Daschle on the left.

Even so, truth in packaging compels the admission that the current push is basically a Republican scam. All but three of the Senate co-sponsors are Republicans. The 12-year limit was endorsed in the 1988 Republican platform. The letterhead pressure group promoting the idea, something called Americans to Limit Congressional Terms, is run out of a Republican political consultant's office.

Republicans are understandably eager to support any lunatic notion that holds out the promise of helping them break the Democratic stranglehold on Capitol Hill. But this just might be one of those rare cases where narrow self-interest is congruent with the public good.

The arguments for the term limit are surprisingly persuasive, especially where the House is concerned. Almost all of them are variations on a single theme: breaking the Gordian knot of entrenched incumbency, which distorts our democracy from the polling place clear up to the Senate and (especially) House chambers.

The term limit would mean that at least once every 12 years, and probably more frequently, every citizen would get a fighting chance to vote in a genuinely political congressional election. And it leaves Congress little choice but to elect its chiefs democratically, on the basis of the policies and the leadership qualities of the candidates.

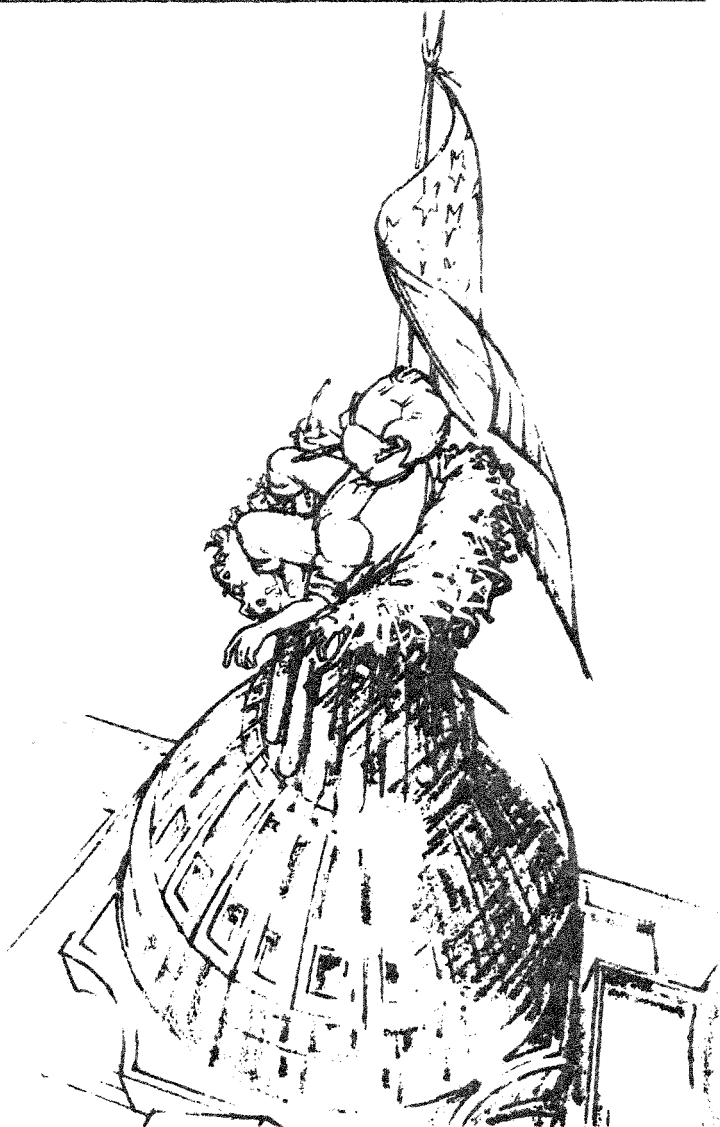
A Congress shaped by a term limit would have a different and healthier mentality. During periods when it was controlled by the party that also controls the White House, it would be energetic in pursuit of that party's program; when in opposition, it would — for a change, and just as energetically — oppose.

It's true, as the critics also say, that the term limit would deprive Congress of the services of legislators whom experience has made wise. This would be a real cost. But it would be a cost worth paying to be rid of the much larger number of time-servers who have learned nothing from longevity in office except cynicism, complacency and a sense of diminished possibility.

And it's not as if the job of being a congressman is so difficult that it takes decades to master. It's easier than being a first-rate schoolteacher, for example, and no harder than such jobs as president, governor or mayor — all of which are regularly performed very well indeed by people who have had no on-the-job experience at all.

A shot at Congress would be an attrac

In the overwhelming majority of congressional districts, voting is increasingly an irrational act.



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The Case Against Congressional Term Limitations

CHARLES R. KESLER

Everyone complains about Congress, but nobody does anything about it. Frustration with our national legislature, which is by almost every measure widespread among the American public, is about to be exploited by a national movement to throw the rascals out—the rascals, in this case, being incumbent congressmen and senators who have so mastered the art of reelection as to be thought unremovable by conventional means. The most widely touted solution to the problem is the extreme one of adding an amendment to the Constitution limiting the number of terms that members of the House and Senate can serve.

This notion appears to have been first circulated by the same informal network of radio talk-show hosts who were instrumental in rallying public opposition to last year's congressional pay raise. The idea has found support in public opinion polls and is being pressed by a new organization, Americans to Limit Congressional Terms (ALCT), that operates out of the offices of Republican political consultant Eddie Mahe and whose board includes both prominent Democrats and Republicans.

It is the latter party that stands to benefit most from limiting the years a congressman can serve, inasmuch as it is the Republicans who suffer under the rule of a more or less permanent Democratic majority in the House and Senate. In fact, term limitations were endorsed in the 1988 Republican platform. It is hardly surprising, therefore, that conservatives, too, are seizing the issue. In the symposium on conservatism for the 1990s featured in the Spring 1990 issue of *Policy Review*, almost a third of the contributors called for some sort of limitation on congressional terms.

98-Percent Paradox

This movement builds on the public's mounting dissatisfaction with a Congress that is seen not only as unresponsive but also as incompetent and corrupt. Indeed, in light of the chronically unbalanced federal budget, Congress's reluctance to perform even its minimal duty of passing a budget (balanced or not) without resort to omnibus continuing resolutions and reconciliation acts, the 51 percent salary increase for its members

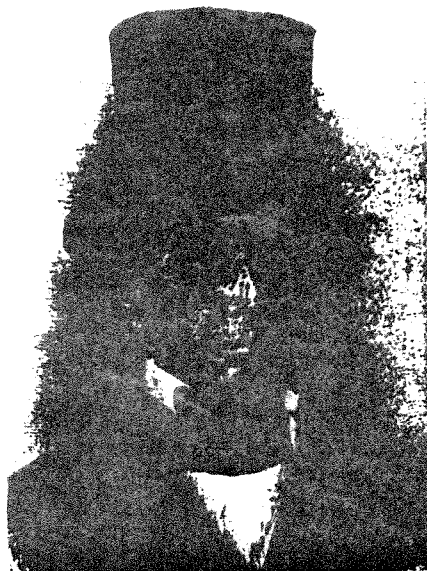
that it tried to brazen through without a rollcall vote, the generous privileges it extends to its members (large staffs, multiple offices, free travel allowances, frequent mailings at public expense, liberal pensions), the corruption-tinged resignations of former House Speaker Jim Wright and former Democratic Whip Tony Coelho, the metastasizing scandal of the Keating Five—in light of all these things, it is a wonder that congressmen get reelected at all.

And yet that is the paradox. Despite a deep dissatisfaction with Congress as an institution, the American people are reelecting their congressmen (that is, members of the House) at the highest rates in history. In the 1986 and 1988 elections, more than 98 percent of incumbent congressmen seeking reelection were returned to office. By now we have all heard the jokes about there being more turnover in the British House of Lords or in the Soviet Politburo than in the U.S. House of Representatives. The interesting question is, Why? What has happened to transform what the Framers of the Constitution envisioned as the most democratic, turbulent, changeable branch of the national government into the least changeable, most stable of the elective branches? And to come around to the question of the moment, will limiting the number of terms a congressman or senator can serve do anything to remedy the problem?

Anti-Federalists: "Virtue Will Slumber"

This is not the first time in American history that a limit on the reeligibility of elected federal officials has been proposed. At the Constitutional Convention in 1787, whether the president ought to be eligible for reelection was extensively debated, although always in close connection with the related questions of his term of office and mode of election. With the invention of the electoral college and with his term fixed at four years, it was thought to be productive of good effects and consistent with his independence from the legislature to

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Photos from The Bettmann Archive

A two-term limit would have disabled Daniel Webster's Senate career, but not Henry Clay's or John C. Calhoun's.

allow the president to be eligible for reelection indefinitely; and so it remained until the 22nd Amendment was added to the Constitution. But what is less well known is that the Constitutional Convention also considered limitations on the reeligibility of the lower house of the legislature. The so-called Virginia Plan, introduced by Edmund Randolph, would have rendered members of the House ineligible for reelection for an unspecified period after their term's end. The period was never specified because the Convention expunged the limitation less than a month after it had been proposed.

Nevertheless, the question of limiting congressional terms lived on. It was taken up vigorously by the Anti-Federalists, the opponents of the new Constitution, who urged that "rotation in office" be imposed not so much on House members as on senators, whose small numbers, long term of office, and multifaceted powers made them suspiciously undemocratic. The Anti-Federalists built upon the legacy of the Articles of Confederation, which had required that members of Congress rotate out after serving three one-year terms within any five-year period. Quite a few critics of the Constitution attacked the unlimited reeligibility of the president, too, but the brunt of their criticism fell upon the Senate. In their view, it was a fatal mistake to neglect "rotation, that noble prerogative of liberty." As "An Officer of the Late Continental Army" called it in a Philadelphia newspaper, rotation was the "noble prerogative" by which liberty secured itself, even as the Tudor and Stuart kings had ignobly wielded their "prerogative power" in defense of tyranny.

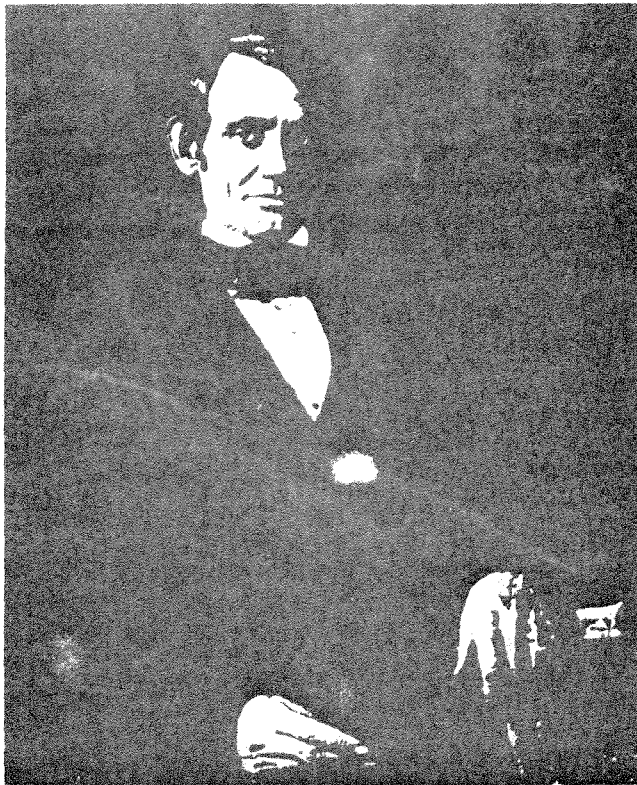
The current appeal for limits on congressional office-holding echoes the major themes of the Anti-Federalists 200 years ago. One of the most rigorous of the Constitution's critics, the writer who styled himself "The Federal Farmer," put it this way: "[I]n a government consisting of but a few members, elected for long periods, and far removed from the observation of the people, but few changes in the ordinary course of elections take place among the members; they become in

some measure a fixed body, and often inattentive to the public good, callous, selfish, and the fountain of corruption." After serving several years in office, he continued, it will be expedient for a man "to return home, mix with the people, and reside some time with them; this will tend to reinstate him in the interests, feelings, and views similar to theirs, and thereby confirm in him the essential qualifications of a legislator." Were the people watchful, they could recall him on their own and substitute a new representative at their discretion. But they are not sufficiently vigilant. As Patrick Henry warned at the Virginia ratifying convention, "Virtue will slumber. The wicked will be continually watching: Consequently you will be undone."

Federalists: The People Are Not Fools

The Anti-Federalist arguments were rejected by the advocates of the new Constitution. However, it is only for the presidency that the authors of the most authoritative defense of the Constitution, *The Federalist*, give a detailed refutation of the scheme of rotation in office. In *The Federalist's* view, there is "an excess of refinement" in the notion of preventing the people from returning to office men who had proved worthy of their confidence. The people are not fools, at least not all of the time, and they can be trusted to keep a reasonably sharp eye on their representatives. So far as history can confirm such a proposition, it seems to pronounce in favor of *The Federalist*. Throughout the 19th and most of the 20th centuries, American politics was not characterized by a professional class of legislators insulated from the fluctuations, much less the deliberate changes, of public opinion. In the 19th century, it was not unusual for a majority of the membership of Congress to serve only one term; congressional turnover consistently averaged 40 to 50 percent every election. Occasionally it reached 60 or 70 percent.

The young Abraham Lincoln, for example, served only one term in the House of Representatives, in keeping with an informal rotation agreement he had



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Abraham Lincoln served only one term in the House as part of an informal rotation agreement. Such agreements betokened a vigorous intraparty political life as well as keen competition between the parties.

negotiated with two Whig Party rivals in his district. Such agreements were not uncommon, and betokened a vigorous intraparty political life as well as keen competition between the parties: no party wanted its officeholders to betray an unrepentant ambition. But ambition was controlled informally by rotation within a party's bank of candidates so that the party and the country enjoyed the best of both worlds—a circulation of capable and experienced men through public office, with the possibility of keeping truly exceptional ones in office if circumstances demanded it.

Accordingly, even the most distinguished congressmen and senators of the 19th century pursued what by today's standards would be frenetic and irregular political careers. Henry Clay, famous as "the Great Compromiser," was sent thrice to the Senate to serve out someone else's term (the first time despite his being less than 30 years old); served two years in the Kentucky assembly, the second as its speaker; was elected seven times (not consecutively) to the House and three times was chosen speaker, although he often resigned in mid-term to take up a diplomatic post or run (unsuccessfully, three times) for president; and was elected twice to the Senate in his own right. Daniel Webster was elected to five terms in the House (not consecutively) and four terms in the Senate, in addition to running once (fruitlessly) for president and serving more than four nonconsecutive years as Secretary of State under three presidents. John C. Calhoun was elected to four terms in the House, served seven years as Secretary of War, was

elected twice to the vice presidency, and then served two years of Robert Hayne's (of the Webster-Hayne debate) Senate term, two Senate terms in his own right, one year as Secretary of State, and four more years in the Senate.

By the way, the ALCT's proposed constitutional amendment, which would limit members of Congress to 12 consecutive years in office (six terms for representatives, two for senators), would have had no impact on Clay's nor Calhoun's career but would have disabled Webster, who was elected three times in a row to the Senate.

The Swing Era Ends

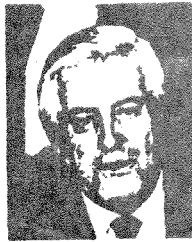
But the larger and more important point is that today's entrenched Congress is a product of the great changes in American politics that have occurred since the late 19th century, particularly the weakening of political parties and the great increase in the size and scope of the federal government. Serving in Congress has become a profession over the past 100 years. The average (continuous) career of congressmen hovered around five years at the turn of the century, already up significantly from its earlier levels; today, the figure has doubled again, with the average member of the House serving about 10 years. In the century after 1860, the proportion of freshmen in the House plummeted from nearly 60 percent to around 10 percent, about where it remains today. This gradual professionalization of Congress owes something to the gradual increase of power in Washington, which made it more attractive to hold office; and still more to the seniority system, introduced in the House after the famous revolt against the power of the Speaker around 1910. With the seniority system in place, districts had great incentives to keep their representatives serving continuously. But the contemporary problems of incumbency are something else again. Since 1971, when House Democrats voted in their caucus to elect committee chairmen by secret ballot

Today's entrenched Congress is a product of the weakening of political parties and the great increase in the size and scope of the federal government.

rather than follow the rule of committee seniority, the perquisites of seniority have declined, in part. Yet congressional reelection rates have risen. If it is not the advantages of seniority that account for today's almost invulnerable incumbents, then what is it?

Since the Second World War, reelection rates have been very high, averaging more than 90 percent; they

Have These Legislators Been in Office Too Long?



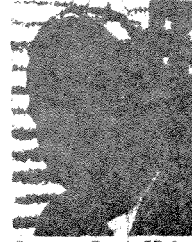
Rep. Henry Hyde
(R - Illinois)
Elected 1974



Senator Sam Nunn
(D - Georgia)
Took office 1972



Senator Bill Bradley
(D - New Jersey)
Elected 1978



Senator Jesse Helms
(R - North Carolina)
Elected 1972



Rep. Newt Gingrich
(R - Georgia)
Elected 1978



Senator Orrin Hatch
(R - Utah)
Elected 1976



Senator Richard Lugar
(R - Indiana)
Elected 1976



Rep. Dan Rostenkowski
(D - Illinois)
Elected 1958



Rep. Tom Foley
(D - Washington)
Elected 1964

have risen even further recently, approaching 100 percent in the last few elections. The political scientist David Mayhew identified the key to the incumbency problem as "the vanishing marginals," that is, the decline over the past 40 years in the number of marginal or competitive House districts. (A victory margin of 50 to 55 percent makes a district marginal, that is, capable of being won by a challenger.) In 1948 most incumbents won narrowly, getting less than 55 percent of their district's vote. Twenty years later, three-fourths of the incumbents received 60 percent or more of their district's vote, making these essentially safe seats for the winning congressmen. So, not only are more incumbents than ever winning, they are winning by bigger margins than ever before.

Explanations for the decline in marginal districts have not been scarce. First, there is the effect of gerrymandered congressional districts, which tend to be drawn in such a fashion as to lock in incumbents of both parties. Researchers have shown, however, that marginal districts declined just as sharply in the 1960s in states that did *not* redistrict as in those that did; so gerrymandering cannot be the principal culprit. Then there is the effect of incumbency itself—the franking privilege, free publicity stemming from benefits delivered to the district, prodigious sums of money contributed by political action committees, all of which make possible the greater name recognition that is supposed to discourage unknown and underfunded challengers. As the rates of incumbent reelection have climbed, therefore, one would expect an increase in incumbents' name recogni-

tion. But, as John Ferejohn and other analysts have shown, the data do not bear this out: incumbents are no better known now than they were before the marginal districts started vanishing. For all of the incumbents' advantages in name recognition, this factor cannot be the crucial one in explaining the decline in competitive House districts.

Faceless Bureaucracy's Friendly Face

In his arresting book *Congress: Keystone of the Washington Establishment*, the political scientist Morris Fiorina puts his finger on the nub of the problem. During the 1960s, congressmen began to put an unprecedented emphasis on casework or constituent service and pork-barrel activities as a way to ensure their reelection. The new emphasis was made possible precisely by "big government," the federal government's expansion of authority over state and local affairs that began dramatically with the New Deal and accelerated during the Great Society. As the federal bureaucracy expanded, more and more citizens found themselves dealing directly with federal agencies—the Social Security Administration, the Veterans Administration, the Equal Employment Opportunity Commission, the Environmental Protection Agency, and so on. To penetrate the mysteries of the administrative state, to find a friendly face amid the "faceless" bureaucrats and a helping hand among so many seemingly determined to do injustice in particular cases, citizens began increasingly to turn to their congressman for succor.

And they were encouraged to do so, particularly by the younger and more vulnerable congressmen who had come into office in the great Democratic waves of 1964 and 1974. Eventually, however, almost all congressmen caught on to the "new deal" made possible and necessary by the increased reach of Washington. The beauty of the new politics was that the same congressmen who were applauded for creating new federal agencies to tackle social problems also got credit for helping their constituents through the labyrinths of these impersonal bureaucracies. In Fiorina's words: "Congressmen take credit coming and going. They are the alpha and the omega." The more ambitious of them exploit the paradox shamelessly: the more bureaucracy they create, the more indispensable they are to their constituents. To which one must add: the longer they've been around

Constituent service is gradually transforming the House of Representatives from the most popular branch of the legislature into the highest branch of the civil service.

Washington, the more plausible is their claim to know precisely how to aid their constituents with the bureaucracy.

It is clear that knowledge of these bureaucratic folkways is more important to voters than ever before. But it requires only a very small number of swing voters, perhaps only 5 percent or so, to transform a district from being marginal or competitive into being safe (thus increasing the incumbent's vote from, say, 53 to 58 percent). To explain the disappearing marginal districts it is therefore necessary only for a very small sector of the electorate to have been won over to the incumbent by the constituent service and pork-barrel opportunities opened up by an activist federal government. To this group of voters in particular, perhaps to most voters to one degree or another, the congressman's job is now thought to be as much administrative as political. The spirit of nonpartisan, expert administration—central to modern liberalism as it was conceived in the Progressive Era—is gradually coloring the public's view of the House of Representatives, transforming it from the most popular branch of the legislature into the highest branch of the civil service.

If this is true, the congressman's expertise is a peculiar sort, involving as it does interceding with civil servants (and appointed officials) in the spirit of personal, particularistic relations, not the spirit of impersonal rule

following associated with the civil service. Nonetheless, he is expected to keep benefits and services issuing to the district, just as a nonpartisan city manager is expected to keep the streets clean and the sewers flowing. And to the extent that ombudsmanship is a corollary of bureaucracy (as it seems to be, at least in democratic governments), his casework partakes of the spirit of administration rather than of political representation.

Hamilton's "Sordid Views"

Given the origins and nature of the problem with Congress (really with the House of Representatives, inasmuch as Senate incumbents remain beatable), it is apparent that limiting congressional terms to 12 years will do little or nothing to remedy the situation. Any new faces that are brought to Washington as the result of such an amendment will find themselves up against the same old incentives. They will still be eligible for reelection five times. How will they ensure their continued political prosperity without seeing to constituents' administrative needs? If anything, these new congressmen will find themselves confronting bureaucrats rendered more powerful by the representatives' own ignorance of the bureaucracy: for in the administrative state, knowledge is power. It is likely, therefore, that the new congressmen will initially be at a disadvantage relative to the agencies. To counter this they will seek staff members and advisers who are veterans of the Hill, and perhaps larger and more district-oriented staffs to help ward off challengers who would try to take advantage of their inexperience. Is it wise to increase the already expansive power of bureaucrats and congressional staff for the sake of a new congressman in the district every half-generation or so?

The proposed limitation on congressional terms would also have most of the disadvantages of the old schemes of rotation in office that were criticized by the Federalists. Consider these points made by Alexander Hamilton in *Federalist* No. 72 (concerning rotation in the presidency, but still relevant to rotation in Congress). In the first place, setting a limit on office-holding "would be a diminution of the inducements to good behavior." By allowing indefinite reeligibility, political men will be encouraged to make their interest coincide with their duty, and to undertake "extensive and arduous enterprises for the public benefit" because they will be around to reap the consequences. Second, term limits would be a temptation to "sordid views" and "speculation." As Gouverneur Morris put it at the Constitutional Convention, term limits say to the official, "make hay while the sun shines." Nor does a long term of eligibility (12 years in this case) remove the difficulty. No one will know better than the present incumbent how difficult it will be to defeat the future incumbent. So the limits of his career will always be visible to him, as will the temptation to "make hay" as early as possible.

A third disadvantage of term limits is that they could deprive the country of the experience and wisdom gained by an incumbent, perhaps just when that experience is needed most. This is particularly true for senators, whose terms would be limited even though Senate races are frequently quite competitive (recall

1980 and 1986) and that the Senate was precisely the branch of the legislature in which the Framers sought stability, the child of long service.

Distraction for GOP

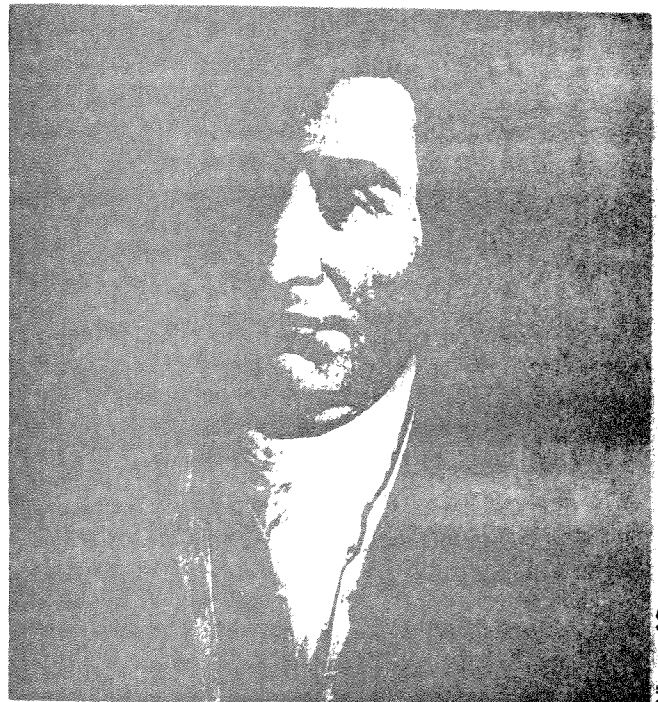
For conservatives and Republicans, the pursuit of a constitutional amendment to limit congressional terms would act as a colossal distraction from the serious work of politics that needs to be done.

The worst effect of the incumbents' advantage in the House is to have saddled America with divided government since 1968 (excepting Jimmy Carter's administration, which was bad for other reasons). Professor Fiorina estimates that if marginal districts had not declined, the Republicans would have taken control of the House five times in the past quarter-century—in 1966, 1968, 1972, 1980, and 1984 (he did not evaluate the 1988 results). Because the marginals did decline, the Democrats, trading on the power of their incumbent members, retained control of the House throughout this period, despite the succession of Republican presidents who were elected.

It would be unfair, of course, to blame the Democrats' popularity wholly on the decline in marginal districts. The GOP has not done well enough in open-seat elections to rely on the incumbency effect as the all-purpose excuse for its inability to take the House. But it is a fair conjecture that the ethos of administrative politics works to the Republicans' disadvantage even in those districts lacking a Democratic incumbent. Which is not to say that Republican incumbents don't look out for themselves; they do. But the spirit of casework and pork-barrel cuts against the grain of conservative Republican principles, and so it is hard for Republican candidates to sound like Republicans when they are preaching the gospel according to FDR and LBJ. More to the point, it is difficult for the Republican Party to articulate why people ought to consider themselves Republicans and ought to vote a straight GOP ticket under these circumstances.

Is it wise to increase the already expansive power of bureaucrats and congressional staff for the sake of a new congressman in the district every half-generation or so?

The attempt to limit congressional terms would do nothing to relieve Republicans of these tactical disadvantages. What is needed is not a gimmick to stir up political competition, but the prudence and courage to



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Edmund Randolph's plan to limit congressional terms was rejected by the Constitutional Convention.

take on the strategic political questions dividing conservative Republicans and liberal Democrats. By (among other things) reconsidering the scope and power of the federal government, by opposing the extension of centralized administration over more and more of American life, Republicans could inaugurate robust political competition. President Reagan and the Republican Party were successful at this in 1980, when the GOP gained 33 seats in the House and took control of the Senate. But they seem to have neglected those lessons in succeeding elections.

By the 1992 election, when reapportionment and redistricting have taken hold (and assuming a generous number of retirements), there could be 100 House districts without an incumbent. To win these the Republicans will require not just the better party organization they have been assiduously building, important as that is, but also a moral and political argument against what, to borrow the 18th-century vocabulary, could be called the corruption of the national legislature and of national politics generally—not corruption in the sense of criminal venality, but in the sense of insulating our legislators from the currents of national political opinion, and encouraging them, and their constituents, to subordinate the public good to their own private welfare.

In this light, congressional term limitations would be at best a distraction. If the American people want to vote all incumbents out of office, or just those particular incumbents known as liberal Democrats, they can do so with but the flick of a lever. All they need is a good reason.

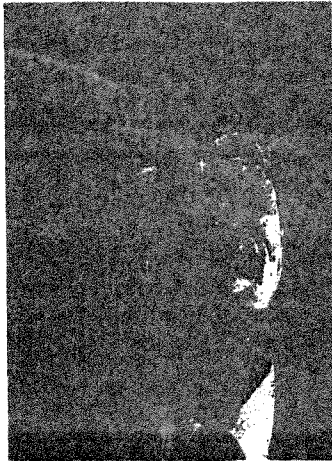
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Economic Viewpoint

REFORMING CONGRESS: WHY LIMITING TERMS WON'T WORK

BY GARY S. BECKER



Only an unrealistic view of human nature could presume that taking away the right to continue at a job will improve performance. More likely, congressmen will take less interest in their work and will spend their time arranging future careers

Critics on both the right and left agree that Congress is not working properly. The hostility is evident in the hackles raised by the relatively modest \$12 million pay raise members voted themselves last year and in the sharp decline in voting in congressional contests during non-Presidential election years.

Some of the blame is often placed on the advantages incumbents have over challengers. According to opinion polls, most Americans favor a constitutional amendment to limit congressional service to a few terms—one or two for senators and three to six for representatives. Although I agree that Congress should be reformed (BW—Apr. 16), surely limiting members' terms is not the way to do it—and could even be counterproductive.

During the past 50 years, the probability that an incumbent will win reelection has risen dramatically—to over 90% for representatives and more than 70% for senators. These numbers overstate the true advantage, since incumbents who expect to lose tend not to run. In 1986, six senators out of the 33 with terms ending and more than 50 representatives did not seek office again.

LEARNING THE ROPE. Even so, incumbents clearly have enormous advantages over challengers. They have name recognition, opportunities to go on television and radio, franking privileges, power to do favors for constituents and other interest groups, and much easier access to campaign funds than challengers do.

But longer congressional service is also part of a general trend in the U.S. and other modern economies for workers to remain at the same jobs. Skilled workers with more than a few years' experience seldom change jobs. They need so much training and knowledge to perform well that frequent job changes would greatly reduce their productivity.

Members of Congress, too, need many years to learn the ropes. For example, mastering the intricacies of military affairs to weigh the seemingly plausible arguments of brass hats who have spent their adult lives in uniform takes a long time. Members need the background to see through self-serving pleas, whether from environmental activists or chemical industry spokesmen. These are reasons voters would be likely to return incumbents to office even if they did not have other advantages over challengers.

Critics concede that increased skill often comes with congressional seniority. They contend that these real advantages of incumbency are outweighed by the pernicious influence of political action committees and other special-interest groups that help finance campaigns. But

limiting congressional terms might increase rather than reduce the political power of such interest groups because candidates unable to rely on the various advantages of incumbency might become yet more dependent on promising favors in exchange for votes and campaign contributions.

In addition, those in Congress who are unable to hope for lengthy careers will be tempted to favor groups that can provide employment or consulting fees when their careers on Capitol Hill are over. Lawyers and other officials who leave government agencies often become employed by groups they had dealt with, and a similar pattern is probable for senators and representatives forced to retire after short stints.

POLITICAL FAVORS. Supporters of limited terms sometimes claim that members who did not have to worry about reelection would become more dedicated proponents of the social interest, instead of advocates of partisan positions. But isn't it much more likely that members who cannot look forward to a long tenure will take less interest in their work and spend their time arranging future careers? Only an unrealistic view of human nature and how people respond to incentives could presume that taking away the right to continue at a job will improve performance.

Congress has serious problems not because incumbents have immense advantage, but mainly because thousands of groups look to the federal government for political favors. Legislatures in other democracies also succumb to the political pressures of various special interests, although candidates elsewhere usually are much more subject to party discipline and do not have to rely so heavily on raising campaign contributions from interest groups.

The posturing and silly behavior in Congress may vastly exceed those of representatives in other countries, but the bottom line is whether tariffs and import quotas, agriculture policies, and other legislation are worse in the U.S. I don't think so. At least the U.S. has avoided high marginal income-tax rates, extensive nationalization programs, and many other examples of bad legislation found in European democracies.

Effective reform must reduce the political power of voting blocs and special interests so that Congress can concentrate on issues that cannot be handled adequately by states or the private sector. I do not know of any easy way to accomplish this. However, it seems clear that reducing incumbents' advantages will not significantly improve how Congress works, and it could well make matters worse.

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A Legislature of transients?

ACCORDING TO the conventional political wisdom, America's legislatures have become encrusted elites of aging incumbents who, because of gerrymandering and money advantages, can't be dislodged from office.

In actual fact, the story is rather different: In California, according to a survey by Karl T. Kurtz of the National Conference of State Legislatures, 88 percent of the Assembly members and two-thirds of the Senators have been in office less than 12 years. In Congress, 62 percent of the House members and 53 percent of the Senators have been there less than 12 years.

But those facts haven't stopped the lurch toward the newest political quick-fix — proposals to limit the terms of members of Congress and the state legislatures. One such measure was enacted last week by voters in Oklahoma, who, by a 2-1 margin, opted to limit the terms of legislators to 12 years. Three other proposals are on state ballots in November — one in Colorado and two in California, where dumb ideas often seem to come in multiples.

But of the four, California's Proposition 140 is the most notable because it is the most radical. It would allow no one to serve in the state Assembly for more than six years — three terms — or in the state Senate for more than eight years — two terms. Thereafter an individual would be forever barred from holding such an office — *barred for life* — and the voters forever deprived of the right to choose him (or her) to represent them.

THERE ARE those who believe that lifetime prohibitions violate the federal Constitution — they certainly violate all the principles of democracy. Only convicted felons are now so attainted. But that hasn't troubled the sponsors of Proposition 140, headed by Peter F. Schabarum, who himself has been sitting on the Los Angeles County Board of Supervisors since 1972 and served in the state Legislature for the five years before that. To be persuasive, Schabarum should have included in his ballot arguments for the measure a list of the offenses that he committed in office that were attributable to his excessive tenure.

There are obvious reasons for exasperation with the Legislature, and they need no further elaboration here. But does any serious

COMMENTARY

By Peter Schrag
Associate Editor

person expect that an Assembly none of whose members have been in office more than five years can adequately deal with the problems of a state the size and complexity of this one?

Who will be its leaders when the most experienced of them can't

No one, of course, can fully predict the consequences of the changes recommended by the Schabarum measure. But it stands to reason that the fewer the number of times an incumbent can run, the more the process of choosing the Legislature becomes a lottery.

possibly have been on the job more than three or four years? Is it possible to imagine that anyone in such a group will understand the complexities of water policy or environmental legislation or the workings of Medi-Cal, much less a budgeting process fraught with a thousand technical intricacies?

And if the Legislators don't understand, who will understand for them? The unelected bureaucrats of the state agencies? The lobbyists of the special-interest groups? Even now, many members sponsor bills whose contents are known only to the lobbyists for whom they carry them. With a six-year limit, will there be any bills, other than the most simple, that the members will be able to

comprehend? What major business, what law firm, what university, could function if it limited itself to people with no more than six years' experience?

No one, of course, can fully predict the consequences of the changes recommended by the Schabarum measure. But it stands to reason that the fewer the number of times an incumbent can run, the more the process of choosing the Legislature becomes a lottery. At the same time, as one legislator confidently predicted, virtually every incumbent will, almost from the first day, be running for another office or seeking another job.

What's certain is that Proposition 140 severely restricts the incentives for doing a good job, and thus undercuts the attractiveness of the job to capable people, not only in its term limitations but in its prohibition on legislative pensions. The backers of Proposition 140 say that it will end the "ingrown political nature of both houses." It will certainly do that; what it will replace it with is something that looks like an airport waiting room — inchoate, without organization or leadership, where most of the occupants are either just arriving or just preparing to go.

THERE IS another term limitation measure on the ballot, Proposition 131, which, in addition to imposing other political reforms, limits legislators to 12 successive years in office but does not prevent them from running again after an absence.

That's much less Draconian, though it still begs the question of why term limitations are needed at all. The conventional answer is that there is no other way to get rid of the rascals, but that's plain malarkey. However gerrymandered a district, the same people who can vote for these initiatives can vote against incumbent legislators. It only takes a majority.

Last week's election returns in Massachusetts and Washington, where even unobjectionable incumbents were beaten in a general wave of voter dissatisfaction, make it clear that you don't have to destroy the system or limit your own franchise in order to get incumbents out of office. You just vote against them. California has had more than a decade of quick fixes by initiative, and it's rarely been in worse shape.